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Contents

Federal Register

Vol. 72, No. 185

Tuesday, September 25, 2007

Agricultural Marketing Service
RULES
Raisins produced from grapes grown in California, 54341–54347

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 54438–54439

Animal and Plant Health Inspection Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54417–54419
Uruguay Round Agreements Act:
International sanitary and phytosanitary standard-setting activities, 54420–54426

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Coast Guard
RULES
Drawbridge operations:
Louisiana, 54359–54360
Regattas and marine parades:
Clarksville Hydroplane Challenge, 54355–54357
Poquoson Seafood Festival Workboat Races, 54357–54359
NOTICES
Committees; establishment, renewal, termination, etc.:
New Orleans Area Maritime Security Committee, 54448

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Marketing Assistance Loan Program—
2007 peanut crop; warehouse storage and handling rates, 54426–54427

Comptroller of the Currency
RULES
Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle, 54347–54349

Defense Department
See Air Force Department
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Dental care for children and other patients; anesthesia and other costs authorization; John Warner National Defense Authorization Act changes, 54353–54355

Employment and Training Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Community Based Job-Training Program, 54462–54463

Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54463–54464

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Pennsylvania; correction, 54361–54363
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Virginia, 54385–54390
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Pennsylvania, 54390–54402
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54441–54445
Water supply;
Public water system supervision program—
Colorado, 54445–54446

Export-Import Bank
NOTICES
Economic impact policy; finance applications:
Germany; photovoltaic module manufacturing equipment and services, 54446

Federal Communications Commission
RULES
Common carrier services:
International telecommunications service provision; amendments, 54363–54367

Federal Deposit Insurance Corporation
RULES
Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle, 54347–54349

Federal Energy Regulatory Commission
NOTICES
Complaints filed:
BP West Coast Products LLC, 54440
E.ON U.S. LLC, 54440–54441
Hydroelectric applications, 54441
Applications, hearings, determinations, etc.:
Caledonia Energy Partners, L.L.C., 54439–54440
Strategic Energy, L.L.C., 54440

Federal Reserve System
RULES
Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle, 54347–54349
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 54446

Fish and Wildlife Service
RULES
Endangered and threatened species
Critical habitat designations—
Trichostema austromontanum ssp. compactum, 54377–54384
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Tidewater goby, 54411–54416

Food and Drug Administration
NOTICES
Reports and guidance documents; availability, etc.:
Microbiological considerations for antimicrobial food additive submissions; industry guidance, 54446–54447

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54447–54448

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
RULES
FHA programs; introduction:
Uniform physical condition standards and physical inspection requirements; physical inspection report response time, 54516–54517
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54449

Industry and Security Bureau
NOTICES
Export privileges, actions affecting:
Fazeli, Mohammad, 54427–54428

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
RULES
Income taxes:
Corporate estimated tax
Correction, 54350–54351
Tax-sheltered annuity contracts
Correction, 54350–54352
NOTICES
Meetings:
Taxpayer Advocacy Panels, 54509–54510

International Trade Administration
NOTICES
Antidumping:
Brake rotors from—
China, 54430–54436
Honey from—
China, 54436
Antidumping and countervailing duties:
Administrative review requests, 54428–54430
Meetings:
Environmental Technologies Trade Advisory Committee, 54436

International Trade Commission
NOTICES
Meetings; Sunshine Act, 54457

Justice Department
See National Institute of Corrections
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54457–54460
Privacy Act; systems of records, 54460

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54461–54462

Land Management Bureau
NOTICES
Alaska Native claims selection:
Stuyahok Ltd., 54449–54450
Meetings:
Steens Mountain Advisory Council, 54450
Recreation fee areas:
Arizona and California long-term visitor areas; special permit fee adjustments and supplementary rule revision, 54450–54454
Reports and guidance documents; availability, etc.:
Commercial, competitive, and organized group activity and event special recreation permits; application fees; supplementary rule; correction, 54454–54455
Withdrawal and reservation of lands:
Utah, 54455–54456

Maritime Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54509

National Aeronautics and Space Administration
NOTICES
Meetings:
Aerospace Safety Advisory Panel, 54464–54465
NASA Advisory Council, 54465

National Council on Disability
NOTICES
Meetings:
International Watch Advisory Committee, 54465

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54465–54466
Senior Executive Service Performance Review Board; membership, 54466–54467

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Occupant crash protection—
Child restraint systems; update, 54402–54411

National Institute of Corrections
NOTICES
Meetings:
Advisory Board, 54460–54461

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Pacific Fishery Management Council, 54437
Western Pacific Fishery Management Council, 54437–54438

National Park Service
NOTICES
Environmental statements; availability, etc.:
Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, WY; winter use plans, 54456

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 54467

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Defense Logistics Agency, Defense National Stockpile Center Somerville Depot, Hillsborough, NJ, 54467–54469
Wolf Creek Nuclear Operating Corp., 54469–54470
Meetings; Sunshine Act, 54470–54471
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 54471–54485

Personnel Management Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54485–54486

Postal Service
RULES
Domestic Mail Manual:
Sharps and other regulated medical waste containers; revised mailing standards, 54360–54361

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Walker River Basin Acquisitions Program, NV, 54456–54457

Securities and Exchange Commission
NOTICES
Securities:
Suspension of trading—
Plasticon International Inc., 54486
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 54486–54495
Chicago Board Options Exchange, Inc., 54495–54497
International Securities Exchange, LLC, 54497–54498
National Securities Clearing Corp., 54498–54499
New York Stock Exchange LLC, 54499–54504
NYSE Arca, Inc., 54505–54506
Philadelphia Stock Exchange, Inc., 54506–54508

Small Business Administration
NOTICES
Disaster loan areas:
Iowa, 54508

Social Security Administration
RULES
Supplemental security income:
Social Security Protection Act of 2004—
Individuals residing in medical treatment facilities; reduced benefit rate; correction, 54349–54350

State Department
NOTICES
Senior Executive Service Performance Review Board; membership, 54508

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 54508–54509

Thrift Supervision Office
RULES
Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle, 54347–54349

Transportation Department
See Maritime Administration
See National Highway Traffic Safety Administration
RULES
Standard time zone boundaries:
Southwest Indiana, 54367–54377

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See Thrift Supervision Office
RULES
Privacy Act; implementation, 54352–54353

U.S.-China Economic and Security Review Commission
NOTICES
Meetings, 54511

Veterans Affairs Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 54511–54513

Separate Parts In This Issue

Part II
Housing and Urban Development Department, 54516–54517

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
989 (2 documents) 54341, 54343

12 CFR
4.....54347
208.....54347
211.....54347
337.....54347
347.....54347
563.....54347

20 CFR
416.....54349

24 CFR
200.....54516

26 CFR
1 (4 documents) 54350, 54351
54.....54351
602.....54351

31 CFR
1.....54352

32 CFR
199.....54353

33 CFR
100 (2 documents) 54355, 54357
117.....54359

39 CFR
111.....54360

40 CFR
52.....54361
81.....54361
Proposed Rules:
52 (2 documents) 54385, 54390
81.....54390

47 CFR
1.....54363
63.....54363

49 CFR
71.....54367
Proposed Rules:
571.....54402

50 CFR
17.....54377
Proposed Rules:
17.....54411

Rules and Regulations

Federal Register
Vol. 72, No. 185
Tuesday, September 25, 2007

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. AMS–FV–07–0083; FV07–989–3 FIR]

Raisins Produced From Grapes Grown in California; Change in Requirements for Interhandler Transfers of Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule changing the requirements for interhandler transfers of raisins under the administrative rules and regulations of the California raisin marketing order (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative California (Committee or RAC). This rule continues in effect the action that requires handlers who transfer raisins to other handlers within the State of California to certify to the Committee that only acquired, free-tonnage raisins that meet all applicable order requirements are being transferred to receiving handlers. This action helps maintain the integrity of the order by ensuring that handlers only transfer acquired, free-tonnage raisins that meet applicable order requirements.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Rose.Aguayo@usda.gov*, or *Kurt.Kimmel@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule continues in effect revisions to the requirements for interhandler transfers of raisins under the administrative rules and regulations of the California raisin order. This rule requires handlers who transfer raisins to other handlers within the State of California to certify to the Committee that only acquired, free-tonnage raisins that meet all applicable order requirements are being transferred.

Pursuant to § 989.17, ''acquire means to have or obtain physical possession of raisins by a handler at his packing or processing plant or at any other established receiving station operated by him.'' However, handlers are not deemed to acquire raisins if they are being stored for another, being reconditioned, or held for inspection. Also the term only applies to the handler who first obtains possession of the raisins. Free tonnage raisins are those raisins which have been acquired, not placed in the reserve pool, and for which producers receive payment for 100 percent of handler purchases. This change helps maintain the integrity of the order and was unanimously recommended by the Committee at a public meeting on April 12, 2007.

Section 989.59(e) of the order provides authority for handlers who acquire free-tonnage raisins to transfer such raisins to other handlers within the State of California. It also specifies that transferring handlers shall promptly report such transfers to the Committee, unless transfers are between plants owned or operated by the same handler. Further, it specifies that receiving handlers shall comply with all applicable order requirements before shipping or otherwise making final disposition of such raisins.

Section 989.73 of the order provides authority for the RAC to collect reports from handlers and specifies that, upon request by the RAC, with the approval of the Secretary, handlers shall furnish to the RAC other information as may be necessary to enable it to exercise its powers and perform its duties. The RAC meets routinely to make decisions on various programs authorized under the order such as interhandler transfers. The RAC utilizes information collected under the order in its decision making.

Section 989.173 of the order's administrative rules and regulations specifies certain reports that handlers are currently required to submit to the RAC. Under § 989.173(d)(1) of the order's rules and regulations any handler who transfers free-tonnage raisins to another handler within the State of California shall submit a report to the Committee showing information regarding the interhandler transfer not

later than five calendar days following such transfer.

Such information includes the transfer date; the names and addresses of the transferring parties; the varietal type, net weight, and condition of the raisins transferred; and the inspection certificate number, if the raisins have already been packed. Transferring handlers are required to forward two copies of the RAC Form No. 6, ''Interhandler Transfers of Free-Tonnage Raisins,'' to the receiving handler at the same time the report is submitted to the Committee. The receiving handler is required to certify receiving the raisins and to submit one copy of the certification report to the Committee within five calendar days of receiving the raisins or the copies of RAC Form No. 6, whichever is later.

The Committee is concerned that some handlers may be transferring California raisins which are not acquired or which do not meet all applicable order requirements. Such requirements include proper reporting, inspection, assessments, and volume regulation. To help ensure that handlers only transfer acquired, free-tonnage raisins that meet all applicable order requirements, the Committee unanimously recommended that transferring handlers certify on RAC Form No. 6, ''Interhandler Transfer of Free-Tonnage Raisins,'' that only acquired, free-tonnage raisins that meet all applicable order requirements are being transferred. The Committee expects that requiring this certification should help maintain the integrity of the order.

This rule continues to modify § 989.173(d)(1) by deleting the word ''and'' from paragraph (iii); by changing the period to a semi-colon and adding the word ''and'' at end of paragraph (iv); and by adding a new subparagraph (v), which requires handlers to certify that the raisins being transferred are acquired, free-tonnage raisins that meet all applicable order requirements including proper reporting, incoming inspection, assessments, and volume regulation.

The RAC Form No. 6, ''Interhandler Transfer of Free-Tonnage Raisins'' has been modified by the addition of the following paragraph: ''To Be Completed by Transferring Handler: The undersigned certifies that the raisins being transferred have met all Federal order requirements, including proper reporting, incoming inspection, assessments, and volume regulations, if applicable.'' No additional reporting burden is placed upon handlers.

Final Regulatory Flexibility Analysis

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

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

There are approximately 23 handlers of California raisins who are subject to regulation under the order and approximately 4,000 raisin producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. No more than 10 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 23 handlers subject to regulation have annual sales estimated to be at least $6,500,000, and the remaining 10 handlers have sales less than $6,500,000.

This rule continues to revise § 989.173(d)(1) of the order's administrative rules and regulations and requires handlers who transfer raisins to other handlers to certify on RAC Form No. 6, ''Interhandler Transfer of Free-Tonnage Raisins,'' that only acquired, free-tonnage raisins that meet all applicable order requirements are being transferred. This helps maintain the integrity of the order. Authority for interhandler transfers is provided in § 989.59, and authority to recommend this change is provided in § 989.73 of the order.

Regarding the impact of this action on affected entities, it continues to require handlers who transfer raisins to other handlers to certify on RAC Form No. 6, ''Interhandler Transfer of Free-Tonnage Raisins,'' that such raisins are acquired, free-tonnage raisins that meet all applicable order requirements.

The Committee considered not requiring handlers to certify that their transferred raisins are acquired free-tonnage raisins and that they meet all applicable order requirements. However, the Committee was concerned that some handlers may be transferring California raisins which are not acquired or which do not meet all applicable order requirements. Such requirements include proper reporting, incoming inspection, assessments, and volume regulation. As receiving handlers want additional assurance that they are receiving raisins which have been acquired and which meet applicable order requirements, the Committee unanimously recommended revising the requirements regarding interhandler transfers of free-tonnage raisins.

All handlers must currently report their interhandler transfers to the Committee on RAC Form No. 6, ''Interhandler Transfer of Free-Tonnage Raisins.'' This form is currently approved by the Office of Management and Budget (OMB) under OMB No. 0581–0178, Vegetable and Specialty Crops. This rule continues to add a certifying statement above the transferring handler's signature block to this form.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by the industry and public sector agencies. In addition, as noted in the final regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

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

Further, the Committee's meetings were widely publicized throughout the California raisin industry and all interested persons were invited to attend the meetings and participate in deliberations on all issues. The Committee's Administrative Issues Work Group discussed this issue at length during meetings on January 23, and February 1, 2007. The Administrative Issues Subcommittee thus recommended the change to the Committee on April 12, 2007. All of these meetings were public meetings and all entities, both large and small, were able to express views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on August 7, 2007. Copies of the rule were also mailed to Committee members and alternates and all raisin handlers. In addition, the rule was made

available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 15-day comment period which ended on August 22, 2007. One comment supporting the rule was received. The commenter concurred that this action helps to maintain the integrity of the order.

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

After consideration of all relevant materials presented, including the Committee's recommendation, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (72 FR 44029, August 7, 2007), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 989 which was published at 72 FR 44029 on August 7, 2007, is adopted as a final rule without change.

Dated: September 19, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–18794 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. AMS–FV–07–0071; FV07–989–2 FR]

Raisins Produced From Grapes Grown in California; Use of Estimated Trade Demand To Compute Volume Regulation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides for use of an estimated trade demand figure to compute volume regulation percentages for 2007–08 crop Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). This rule provides parameters for implementing volume regulation for 2007–08 crop NS raisins, if supplies are short, for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market.

EFFECTIVE DATE: September 26, 2007.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Rose.Aguayo@usda.gov* or *Kurt.Kimmel@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is applicable to the 2007–08 crop year, which began on August 1, 2007, and runs through July 31, 2008. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This final rule provides for use of an estimated trade demand figure to compute volume regulation percentages for 2007–08 crop NS raisins covered under the order. This rule provides parameters for implementing volume regulation for 2007–08 crop NS raisins, if supplies are short, for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market. This action was unanimously recommended by the Committee at a meeting on April 12, 2007.

Volume Regulation Authority

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage), while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the Committee. Reserve raisins are disposed of through certain programs authorized under the order. For instance, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop the following year; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are distributed to the reserve pool's equity holders, primarily producers.

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation for each crop year, which runs from August 1 through July 31. The Committee must meet by August 15 to review data regarding raisin supplies. At that time, the Committee computes a trade demand for each varietal type of raisins for which a free tonnage percentage might be recommended.

Trade demand is equal to 90 percent of the prior year's domestic and export shipments, adjusted by subtracting carryin inventory from the prior year and adding a desirable carryout inventory for the end of the current year.

By October 5, the Committee must announce preliminary crop estimates and determine whether volume regulation is warranted for the varietal types for which it computed trade demands. Preliminary volume regulation percentages are then computed to release 85 percent of the computed trade demand if a field price has been established or 65 percent of the trade demand if no field price has been established. Field price is the price that handlers pay for raisins from producers. By February 15, the Committee must recommend final free and reserve percentages that will tend to release the full trade demand.

The order also requires that, when volume regulation is in effect, two offers of reserve raisins must be made available to handlers for free use. These offers are known as the ''10 plus 10'' offers. Each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. The order also specifies that ''10 plus 10'' raisins must be sold to handlers at the current field price plus a 3 percent surcharge and Committee costs.

Development of Export Markets

With the exception of 11 crop years, volume regulation has been utilized for NS raisins since the order's inception in 1949. The procedures for determining volume regulation percentages have been modified over the years to address the industry's needs. In the past, volume regulation has been utilized primarily to help the industry manage an oversupply of raisins. Through the use of various marketing programs operated through reserve pools and other promotional activities, the industry has also developed its export markets.

Between 1980 and 1985, exports of California NS raisins averaged about 26 percent (53,700 packed tons, or raisins which have been processed) of the industry's total NS raisin shipments (207,600 packed tons, excluding government purchases) per year. During the last nine years (1997–2005) these exports averaged about 37 percent (105,000 packed tons) of the industry's total NS raisin shipments (282,000 packed tons, excluding government purchases) per year.

Export Replacement Offer

One market development program operated through reserve pools, the Export Replacement Offer (ERO), has helped U.S. raisins to be price competitive in export markets. Prices in export markets are generally lower than the domestic market. The ERO began in the early 1980s as a ''raisin-back'' program whereby handlers who exported California raisins could purchase, at a reduced price, reserve raisins for free use. This effectively blended down the cost of the raisins that were exported. The NS raisin ERO was changed to a ''cash-back'' program in 1996 whereby handlers could receive cash from the reserve pool for export shipments.

The NS ERO operated as a ''cash back'' program in all years since then, except for 2000, 2001, and a portion of 2002. During 2002 both ''cash back'' and ''raisin back'' programs were implemented. Financing for the cash-back ERO program has been primarily from the Committee's ''10 plus 10'' sales of reserve raisins. Under the 2002, 2003, 2004, and 2005 cash-back ERO programs an average of $39.7 million of reserve pool funds per year were utilized to support the export of about 103,000 packed tons of NS raisins annually.

Current Industry Situation—Declining Production

Raisin deliveries reached an all time high in 2000–01 at 432,616 natural condition tons. Deliveries for the subsequent two years (2001–02 and 2002–03) remained high at 377,328 and 388,010 natural conditions tons, respectively. Producer prices dropped dramatically during these years of high production. In the years to follow, grape production declined because of poor grower returns in the wine and raisin segments of the industry. Raisin deliveries for the 2003–04 through the 2005–06 crop year averaged 293,750 natural condition tons. Deliveries for the recently completed 2006–07 crop year fell to 282,999 natural condition tons. Since 2000, about 40,000 producing acres of grape vines have been removed in favor of other crops, which have provided higher returns.

The Committee is concerned that the 2007–08 crop may be short because of grape vine removals over the last several years and an April frost. As a result, volume regulation may not be warranted based on the order's computed trade demand formula. If no 2007–08 reserve were established, the industry would not be able to continue the ERO program and support its export sales. The Committee is concerned that the industry could lose a significant portion, perhaps 50 percent, of its export markets. Further, handlers who could not sell their raisins in export may sell their raisins domestically. Annual domestic shipments of NS raisins for the past 9 years have averaged about 177,000 packed tons. The Committee is concerned that additional raisins sold into the domestic market could create instability.

Thus, the Committee formed a working group to review this issue and consider options to continue to support its export sales while maintaining stability in the domestic market. After its meeting on February 1, 2007, the working group presented its recommendation to the subcommittee, and then, in turn, to the Committee. At a meeting on April 12, 2007, the Committee unanimously recommended using an estimated trade demand rather than a computed trade demand to calculate the 2007–08 NS raisin crop volume regulation percentages, if the crop size falls within certain parameters. Section 989.154(b) of the order's administrative rules and regulations is revised accordingly by replacing ''1999–2000'' with ''2007–08'' and ''235,000'' with ''215,000.''

Implementing Volume Regulation If Supplies Are Short To Maintain the ERO

Section 989.54(e) contains a list of factors that the Committee must consider when computing volume regulation percentages. Factor (4) states that the Committee must consider, if different than the computed trade demand, the estimated trade demand for raisins in free tonnage outlets. The Committee recommended using an estimated trade demand figure for 2007–08 crop NS raisins, which is a figure different than the computed trade demand, to compute volume regulation percentages to create a reserve if supplies are short. This will allow the Committee to continue its ERO program, thereby maintaining a portion of its export sales and stabilizing the domestic market.

Specifically, the Committee recommended that an estimated trade demand be utilized to compute preliminary, interim, and final free and reserve percentages for 2007–08 crop NS raisins if the crop estimate is equal to, less than, or no more than 10 percent greater than the trade demand as computed according to the formula specified in § 989.54(a) of the order. If an estimated trade demand figure is utilized, the final reserve percentage will be no more than 10 percent. Finally, volume regulation will not be implemented if the 2007–08 crop estimate is below 215,000 natural condition tons.

Crop Estimate Below 215,000 Tons—No Regulation

To illustrate how this would work, the Committee met on August 14, 2007, and computed a trade demand for 2007–08 NS raisins of 232,822 natural condition tons. The Committee must meet by October 5 to announce a NS crop estimate and determine whether volume regulation is warranted. If the 2007–08 crop estimate is under 215,000 natural condition tons, volume regulation will not be recommended. With a crop of 215,000 natural condition tons, and 105,430 natural condition tons of NS raisins carried forward from the 2006–07 crop year, a supply of about 320,430 natural condition tons of raisins would be available for the 2007–08 crop year. As previously mentioned, annual NS raisin shipments average about 282,000 packed tons (about 300,000 natural condition tons), excluding government purchases.

With an available supply of only 320,430 natural condition tons of NS raisins, the Committee believes that the industry's first priority would be to satisfy the needs of the domestic market, which absorbs annually an average of about 177,000 packed tons (188,000 natural condition tons). Assuming that 188,000 natural condition tons were shipped domestically, the Committee estimates that, with no ERO program to help U.S. raisins be price competitive in export markets, the industry would export about half of its usual tonnage, or about 56,000 natural condition tons. The remaining 76,430 natural condition tons would likely be held in inventory for the following 2008–09 crop year. Annual carryout inventory for NS raisins for the past 9 years has averaged about 108,000 natural condition tons.

Crop Estimate Between 215,000 Tons and 10 Percent Above the Computed Trade Demand—Volume Regulation

If the 2007–08 crop estimate for NS raisins falls between 215,000 natural condition tons and 10 percent above the computed trade demand, the Committee will use an estimated trade demand figure to compute preliminary free and reserve percentages for the 2007–08 crop. Thus, using the 232,822 natural condition ton computed trade demand figure, an estimated trade demand would be used to compute volume regulation percentages if the crop estimate falls between 215,000 and 256,104.2 natural condition tons.

The order specifies that preliminary percentages compute to release 85 percent of the computed trade demand as free tonnage once a field price is established. Producers are paid the field price for their free tonnage. Normally, when preliminary percentages are computed, producers receive an initial payment from handlers for 85 percent of the computed trade demand (or 65 percent of the trade demand if no field price has been established). Using the 232,822 natural condition ton computed trade demand figure, this equates to 197,899 natural condition tons. However, if an estimated trade demand figure were utilized to compute preliminary percentages, for example—215,000 tons, producers would receive an initial payment from handlers for only 182,750 natural condition tons, or 78.5 percent of the computed trade demand.

The Committee is concerned with the preliminary percentage computation using an estimated trade demand and its impact on producer returns. The Committee wants to ensure that the producers receive the field price for as much of their crop as possible while still establishing a small pool of reserve raisins to maintain the ERO. The Committee must meet by February 15 to compute final free and reserve percentages. The Committee recommended that if an estimated trade demand figure is used to compute percentages, the final reserve percentage compute to equal no more than 10 percent of the estimated crop. Producers will ultimately be paid the field price for 90 percent of their crop, or their free tonnage.

The remaining 10 percent of the crop would be held in reserve and offered for sale to handlers in the ''10 plus 10'' offers. As previously described, the ''10 plus 10'' offers are two offers of reserve raisins that are made available to handlers for free use. The order specifies that each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. This requirement would not be met if volume regulation were implemented when raisin supplies were short. However, all of the raisins held in reserve would be made available to handlers for free use. Handlers would pay the Committee for the ''10 plus 10'' raisins and that money would be utilized to fund a 2007–08 ERO program. Any unused 2007–08 reserve pool funds could be used to initiate a 2008–09 ERO program or to make a grower payment to the 2007–08 reserve pool growers.

Crop Estimate More Than 10 Percent Above the Computed Trade Demand

Finally, the Committee recommended that, if the 2007–08 crop estimate is more than 10 percent greater than the computed trade demand (or above 256,104.2 natural condition tons), the computed trade demand of 232,822 natural condition tons will be utilized to compute volume regulation percentages. Under this scenario, enough raisins (over 23,000 natural condition tons) would be available in reserve to continue the ERO program.

It is anticipated that allowing the use of an estimated trade demand figure to compute volume regulation percentages for 2007–08 crop NS raisins if supplies are short will assist the industry in maintaining a portion of its export markets and stabilize the domestic market. If the crop estimate is below 215,000 natural condition tons, no volume regulation will be implemented. If this occurs, it is anticipated that domestic market needs would be met, while export markets would likely not be satisfied.

However, if the crop falls between 215,000 natural condition tons and 256,104.2 tons, establishing a small reserve pool would allow the industry to not only satisfy the needs of the domestic market, but also maintain a portion of its export sales, which now account for about 37 percent of the industry's annual shipments. By maintaining an ERO program, even at a reduced level, exporters could continue to be price competitive and sell their raisins abroad. The domestic market would remain stable because it would not have to absorb any additional raisins that handlers could not afford to sell in export markets.

Final Regulatory Flexibility Analysis

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

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

There are approximately 23 handlers of California raisins who are subject to regulation under the order and approximately 4,000 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small

agricultural producers are defined as those having annual receipts of less than $750,000. No more than 10 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 23 handlers subject to regulation have annual sales estimated to be at least $6,500,000, and the remaining 10 handlers have sales less than $6,500,000.

This rule revises § 989.154(b) of the order's administrative rules and regulations by changing the parameters for using an estimated trade demand figure specified in § 989.54(e)(4) of the order to compute volume regulation percentages for 2007–08 crop NS raisins. Section 989.154(b) provides guidelines for the use of volume regulation if 2007–08 NS raisin supplies are short for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market.

Regarding the impact of the action on producers and handlers, if an estimated trade demand figure is used to compute volume regulation percentages, the final reserve percentage would compute to no more than 10 percent. Producers would thus be paid the field price for at least 90 percent of their crop, but would not be paid the field price for about 10 percent of their crop that would go into a reserve pool. The field price for NS raisins for the past 5 years has averaged $1,073 per ton. Handlers in turn would purchase 90 percent of their raisins directly from producers at the field price, but would have to buy remaining raisins out of the reserve pool at a higher price (field price plus 3 percent and Committee costs). The ''10 plus 10'' price of NS reserve raisins has averaged about $100 higher than the field price for the past 9 years, or $1,173 per ton. Proceeds from the ''10 plus 10'' sales would be used to support export sales.

While there may be some initial costs for both producers and handlers, the long term benefits of this action far outweigh the costs. The Committee believes that with no reserve pool, and hence, no ERO program, export sales would decline dramatically, perhaps up to 50 percent. Handlers would likely sell into the domestic market raisins that they were unable to sell into lower priced export markets. Additional NS raisins sold into the domestic market, which typically absorbs about 177,000 packed tons, could create instability. The industry would likely lose a substantial portion of its export markets, which now account for about 37 percent (105,000 packed tons) of the industry's annual shipments (282,000 packed tons), excluding government purchases). Committee members have also commented that, once export markets were lost, it would be difficult and costly for the industry to recover those sales. Raisins are mostly used as an ingredient in baked goods, cereals, and snacks. Typically, buyers want reliable suppliers from year to year and are generally reluctant to find alternative ingredients or sources. In turn, once buyers change sources, they may not switch back.

Export markets for raisins are highly competitive. The U.S. and Turkey are the world's leading producers of raisins. Turkey exports approximately 80 percent of its total production, and represents an alternative product source for raisin buyers.

Maintaining the industry's export markets will help the industry maximize its 2007–08 total shipments of NS raisins and prevent handlers from carrying forward large quantities of inventory into the 2008–09 crop year. If the industry is unable to maximize its 2007–08 shipments of NS raisins, carryin inventory could be high, which would result in a lower computed trade demand figure for the 2008–09 crop year. A lower trade demand would lower the free tonnage percentage. Since NS raisin producers are paid significantly more for their free tonnage than for reserve tonnage, a lower free tonnage percentage could reduce returns to producers. Projected reduced 2008–09 returns to producers, coupled with the risks of rain and labor shortages during harvest, may influence producers to ''go green,'' or sell their raisin-variety grapes to the fresh-grape, wine, or juice concentrate markets. Additional supplies to those outlets could potentially reduce ''green'' returns as well.

An alternative to the proposed action was considered by the industry. As previously mentioned, the Committee formed a working group to address its concerns. The working group considered utilizing the computed trade demand formula in the order and utilizing about $7.5 million of available funds of the 2005–06 reserve pool and about 20,000 tons of natural condition raisins remaining in the 2006–07 reserve pool in April 2007 to fund the ERO. However, the Committee decided that sufficient assets would not be available to fund the 2007–08 crop NS raisin ERO. The Committee's assets are not sufficient because there was no 2004–05 reserve, and funds from the 2005–06 and 2006–07 pools will ultimately fund the 2007–08 ERO program only until about March 2008.

Thus, after much discussion, the working group ultimately recommended to the Committee using an estimated trade demand to compute volume regulation percentages if 2007–08 crop NS raisin supplies are short.

This action will not impose any additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

In addition, the Committee's working group meeting held on February 1, 2007, and the subcommittee and Committee meetings on April 12, 2007, were widely publicized throughout the raisin industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the February 1 and April 12, 2007, meetings were public meetings and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on August 1, 2007 (72 FR 41948). Copies of the rule were mailed or sent via facsimile to all Committee members and raisin handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending August 16, 2007, was provided to allow interested persons to respond to the proposal. No comments were received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the 2007–08 crop year began on August 1, 2007, and this action must be in place by the time the Committee meets to consider whether volume regulation is warranted for 2007–08 NS raisins (on or before October 5, 2007). Further, handlers are aware of this rule, which was unanimously recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 989.154, paragraph (b) is revised to read as follows:

§ 989.154 Marketing policy computations.

* * * * *

(b) *Estimated trade demand.* Pursuant to § 989.54 (e)(4), estimated trade demand is a figure different than the trade demand computed according to the formula in § 989.54(a). The Committee shall use an estimated trade demand to compute preliminary and interim free and reserve percentages, or determine such final percentages for recommendation to the Secretary for 2007–08 crop Natural (sun-dried) Seedless (NS) raisins if the crop estimate is equal to, less than, or no more than 10 percent greater than the computed trade demand: *Provided,* That the final reserve percentage computed using such estimated trade demand shall be no more than 10 percent, and no reserve shall be established if the final 2007–08 NS raisin crop estimate is less than 215,000 natural condition tons.

Dated: September 20, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–4722 Filed 9–20–07; 1:38 pm]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket ID OCC–2007–00014]

RIN 1557–AD02

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 211

[Docket No. R–1279]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 337 and 347

RIN 3064–AD17

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[Docket ID OTS–2007–0011]

Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks

AGENCIES: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Final rules.

SUMMARY: The OCC, Board, FDIC, and OTS (collectively, the Agencies) are jointly adopting as final the interim rules issued on April 10, 2007, that implemented section 605 of the Financial Services Regulatory Relief Act of 2006 (FSRRA) and related legislation (collectively the Examination Amendments). The Examination Amendments permit insured depository institutions (institutions) that have up to $500 million in total assets, and that meet certain other criteria, to qualify for an 18-month (rather than 12-month) on-site examination cycle. Prior to enactment of FSRRA, only institutions with less than $250 million in total assets were eligible for an 18-month on-site examination cycle. The interim rules made parallel changes to the Agencies' regulations governing the on-site examination cycle for U.S. branches and agencies of foreign banks (foreign bank offices), consistent with the International Banking Act of 1978 (IBA). In addition to implementing the changes in the Examination Amendments, the interim rules clarified when a small insured depository institution is considered ''well managed'' for purposes of qualifying for an 18-month examination cycle.

DATES: Effective on September 25, 2007, the Interim Rules published on April 10, 2007 (72 FR 17798) are adopted as final without change.

FOR FURTHER INFORMATION CONTACT:

OCC: Mitchell Plave, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; Stuart E. Feldstein, Assistant Director, Legislative and Regulatory Activities, (202) 874–5090; Fred Finke, Mid-size/Community Bank Supervision, (202) 874–4468; Patricia Roberts, Operational Risk Policy Analyst, (202) 874–5637.

Board: Barbara Bouchard, Deputy Associate Director, (202) 452–3072, Mary Frances Monroe, Manager, (202) 452–5231, or Stanley Rediger, Supervisory Financial Analyst, (202) 452–2629, Division of Banking Supervision and Regulation; or Pamela G. Nardolilli, Senior Counsel, (202) 452–3289, for the revisions to Regulation H, or Jon Stoloff, Senior Counsel, (202) 452–3269, for the revisions to Regulation K, Legal Division. For users of Telecommunication Device for the Deaf (TDD) only, contact (202) 263–4869.

FDIC: Melinda West, Senior Examination Specialist, (202) 898–7221; Patricia A. Colohan, Senior Examination Specialist, (202) 898–7283; Division of Supervision and Consumer Protection; Rodney D. Ray, Counsel, (202) 898–3556, for the revisions to 12 CFR Part 347; Kimberly A. Stock, Senior Attorney, (202) 898–3815, for the revisions to 12 CFR Part 337; Legal Division.

OTS: Robyn H. Dennis, Director, Operation Risk, (202) 906–5751, Examinations and Supervision Policy Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Section 10(d) of the Federal Deposit Insurance Act (the FDI Act) [1] generally requires that the appropriate Federal banking agency for an insured depository institution conduct a full-scope, on-site examination of the institution at least once during each 12-month period. Prior to enactment of FSRRA, section 10(d) also authorized the appropriate Federal banking agency to lengthen the on-site examination

[1] Section 10(d) of the FDI Act was added by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) and is codified at 12 U.S.C. 1820(d).

cycle for an institution to 18 months if the institution (1) Had total assets of less than $250 million; (2) was well capitalized (as defined for purposes of the prompt corrective action statute at 12 U.S.C. 1831o); (3) was found, at its most recent examination, to be well managed and to have a composite condition of outstanding or good;[2] (4) had not undergone a change in control during the previous 12-month period in which a full-scope, on-site examination otherwise would have been required; and (5) was not subject to a formal enforcement proceeding or order by its appropriate Federal banking agency or the FDIC. The Board, the FDIC and the OTS, as the appropriate Federal banking agencies for state-chartered insured banks and savings associations, are permitted to conduct on-site examinations of such institutions on alternating 12-month or 18-month schedules with the institution's State supervisor, if the Board, FDIC, or OTS, as appropriate, determines that the alternating examination conducted by the State carries out the purposes of section 10(d) of the FDI Act and, if relevant, the Home Owners' Loan Act.

In addition, section 7(c)(1)(C) of the IBA provides that a U.S. branch or agency of a foreign bank shall be subject to on-site examination by its appropriate Federal banking agency as frequently as a national or State bank would be subject to such an examination by the agency. The Agencies have adopted regulations to implement the examination cycle requirements of section 10(d) of the FDI Act and section 7(c)(1)(C) of the IBA, including the extended 18-month examination cycle available to qualifying small institutions and foreign bank offices.[3]

Section 605 of FSRRA, which became effective on October 13, 2006, amended section 10(d) of the FDI Act to raise, from $250 million to $500 million, the total asset threshold below which an insured depository institution may qualify for an 18-month (rather than a 12-month) on-site examination cycle.[4] Public Law 109–473, which became effective on January 11, 2007, also amended section 10(d)(10) of the FDI Act to authorize the appropriate agency, if it determines the action would be consistent with principles of safety and soundness, to allow an insured depository institution that falls within this expanded total asset threshold to qualify for an 18-month examination cycle if the institution received a composite rating of outstanding *or* good at its most recent examination.[5]

The Examination Amendments will allow the Agencies to better focus their supervisory resources on those institutions that may present capital, managerial, or other issues of supervisory concern, while concomitantly reducing the regulatory burden on small, well capitalized and well managed institutions. The Agencies will continue to use off-site monitoring tools to identify potential problems in smaller, well capitalized and well managed institutions that present low levels of risk. Moreover, neither the statute nor the Agencies' regulations limit, and the Agencies therefore retain, the authority to examine an insured depository institution or foreign bank office more frequently than would be required by the FDI Act or IBA.

II. Interim Rule and Comments

On April 10, 2007, the Agencies published and requested comment on interim rules to implement the Examination Amendments.[6] In particular, the Agencies amended their respective rules to raise, from $250 million to $500 million, the total asset threshold below which an insured depository institution that meets the qualifying criteria in section 10(d) and the Agencies' rules may qualify for an 18-month on-site examination cycle. In addition, as authorized by the Examination Amendments, the Agencies determined that it is consistent with safety and soundness to permit institutions with between $250 million and $500 million in total assets that received a composite rating of 1 or 2, which corresponds to ''outstanding'' and ''good'' respectively, under the Uniform Financial Institutions Rating System (commonly referred to as CAMELS),[7] and that meet the other qualifying criteria set forth in section 10(d) and the Agencies' rules, to qualify for an 18-month examination cycle. Consistent with section 7(c)(1)(C) of the IBA, the OCC, Board and FDIC also made conforming changes to their regulations governing the on-site examination cycle for the U.S. branches and agencies of foreign banks. These changes permit a foreign bank office with total assets of less than $500 million to qualify for an 18-month examination cycle if the office received a composite ROCA rating of 1 or 2 at its most recent examination.[8]

In connection with these changes, the Agencies also modified their rules to specify that a small institution meets the statutory ''well managed'' criteria for an 18-month cycle if the institution, besides having a CAMELS composite rating of 1 or 2, also received a rating of 1 or 2 for the management component of the CAMELS rating at its most recent examination.

The Agencies received comments on the interim rules from 11 commenters, although many commenters submitted identical letters to each Agency. Comments were submitted by six banking trade associations, four insured depository institutions, and one law firm. All commenters supported the interim rules. Commenters generally agreed that the rules would appropriately reduce regulatory burden for qualifying small institutions and foreign offices without creating undue risk to the institutions, officers or the deposit insurance fund.[9]

After carefully reviewing the comments and for the reasons set forth above and in the **SUPPLEMENTARY INFORMATION** to the interim rules, the Agencies have determined to make final the interim rules as published in April 2007.

The Agencies estimate that the final rules, like the interim rules, will increase the number of insured depository institutions that may qualify for an extended 18-month examination cycle by approximately 1,089 institutions, for a total of 6,670 insured depository institutions. Approximately 126 foreign branches and agencies would be eligible for the extended

[2] Under section 10(d) of the FDI Act, before enactment of the Examination Amendments, the Agencies had the authority to allow an institution with assets of more than $100 million (but less than $250 million) and a composite CAMELS rating of 2 to qualify for an extended 18-month examination cycle if the Agencies determined that extending the 18-month cycle in this manner would be consistent with safety and soundness. *See* 12 U.S.C. 1820(d)(10). The Agencies exercised this discretion in 1997 and extended the 18-month examination cycle to 2-rated institutions with assets of more than $100 million (but less than $250 million). *See* 62 FR 6449, Feb. 12, 1997 (interim rule); *see also* 63 FR 16377, April 2, 1998 (final rule).

[3] *See* 12 CFR 4.6 and 4.7 (OCC), 12 CFR 208.64 and 211.26 (Board), 12 CFR 337.12 and 347.211 (FDIC), and 12 CFR 563.171 (OTS).

[4] Pub. L. 109–351, 120 Stat. 1966 (2006).

[5] 120 Stat. 3561 (2007).

[6] 72 FR 17798, April 10, 2007.

[7] CAMELS is an acronym that is drawn from the first letters of the individual components of the rating system: Capital adequacy, Asset quality, Management, Earnings, Liquidity, and Sensitivity to market risk.

[8] The four components of the ROCA supervisory rating system for foreign bank offices are: Risk management, Operational controls, Compliance, and Asset quality.

[9] One commenter indicated that it would support increasing the total asset threshold in section 10(d) to $1 billion. The Agencies note that section 10(d) of the FDI Act currently does not allow the Agencies to raise the asset threshold above $500 million.

examination cycle based on the interim rules, for an increase of 31 offices.[10]

The FDI Act and the IBA set the outside limits within which an on-site safety and soundness examination of an institution or foreign bank office must commence, and permit the appropriate Agency for an institution or foreign bank to conduct an on-site examination more frequently than required. The Agencies' rules continue to expressly recognize that the appropriate Agency may examine an institution or foreign bank office as frequently as the Agency deems necessary.

Regulatory Flexibility Act

The final rules do not impose any new obligations, restrictions or burdens on banking organizations, including small banking organizations, and, indeed, reduce regulatory burden associated with on-site examinations for qualifying small institutions and foreign bank offices. For these reasons, the Agencies certify that the final rules will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and therefore a regulatory flexibility analysis is not required. The objective and legal basis for the rules are discussed in the Supplementary Information.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[11] the Agencies have determined that no collections of information pursuant to the Paperwork Reduction Act are contained in these final rules.

Administrative Procedure Act

The Agencies conclude that because the interim rules are in effect and recognize an exemption, and the Agencies have made no changes in the final rules, the rules are exempt from the delayed effective date requirement of the Administrative Procedure Act. 5 U.S.C. 553(d).

OCC and OTS Executive Order 12866 Statement

The OCC and OTS have each independently determined that the final rules are not significant regulatory actions under Executive Order 12866.

[10] Data are as of June 30, 2006, and reflect the number of institutions and foreign bank offices with total assets of less than $500 million.

[11] 44 U.S.C. 3506; 5 CFR 1320, Appendix A.1.

OCC and OTS Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 [12] requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Because the OCC and the OTS have each independently determined that the rules will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year, the OCC and the OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. Nevertheless, as discussed in the preamble, the rules will have the effect of reducing regulatory burden on certain institutions and foreign bank offices.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the Agencies to use ''plain language'' in all proposed and final rules published in the **Federal Register**. The Agencies believe the final rules are presented in a clear and straightforward manner and received no comments on how to make the rules easier to understand.

List of Subjects

12 CFR Part 4

Administrative practice and procedure, Availability and release of information, Confidential business information, Contracting outreach program, Freedom of information, National banks, Organization and functions (government agencies), Reporting and recordkeeping requirements, Women and minority businesses.

12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Crime, Currency, Federal Reserve System, Flood insurance, Mortgages, Reporting and recordkeeping requirements, Safety and soundness, Securities.

[12] Pub. L. 104–4, 109 Stat. 48 (March 22, 1995) (Unfunded Mandates Act).

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Securities.

12 CFR Part 347

Authority delegations (Government agencies), Bank deposit insurance, Banks, Banking, Credit, Foreign banking, Investments, Reporting and recordkeeping requirements, United States investments abroad.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Authority and Issuance

■ For the reasons set forth in the joint preamble, the interim rules amending 12 CFR parts 4, 208, 211, 337, 347, and 563 which were published at 72 FR 17798 on April 10, 2007, are adopted as final rules without change.

Dated: September 17, 2007.

John C. Dugan,

Comptroller of the Currency, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, September 19, 2007.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 11th day of September, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: September 13, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. 07–4716 Filed 9–24–07; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA–2006–0103]

RIN 0960–AF99

Technical Updates to Applicability of the Supplemental Security Income (SSI) Reduced Benefit Rate for Individuals Residing in Medical Treatment Facilities

AGENCY: Social Security Administration.

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains a correction to the final rules that were published in the **Federal Register** on September 5, 2007 (72 FR 50871). The final rules amended our regulations to reflect two provisions of the Balanced Budget Act of 1997 that affect the payment of benefits under title XVI of the Social Security Act (the Act). One of the provisions extended temporary institutionalization benefits to children receiving SSI benefits who enter private medical treatment facilities and who otherwise would be ineligible for temporary institutionalization benefits because of private insurance coverage. The other provision replaced obsolete terminology in the Act that referred to particular kinds of medical facilities and substituted a broader, more descriptive term.

DATES: Effective on October 5, 2007.

FOR FURTHER INFORMATION CONTACT: Lois Berg, Social Insurance Specialist, Office of the Commissioner, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1713, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: The final rule published on September 5, 2007 and effective October 5, 2007 included changes in terminology in § 416.414(a)(1), (2) and (3). These changes were inadvertently removed from the final rule published on September 5, 2007. This correction now shows that the terminology should be changed in those three subordinate paragraphs.

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

■ Accordingly, 20 CFR part 416 is corrected by making the following correcting amendment:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart D—[Amended]

■ 1. The authority citation for subpart D of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611(a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

§ 416.414 [Amended]

■ 2. In § 416.414(a)(1), (2) and (3), remove the words ''medical facility'' and ''medical care facility'' wherever they appear and add in their place the words ''medical treatment facility''.

Dated: September 18, 2007.

Paul Kryglik,

Acting Social Security Regulations Officer.

[FR Doc. E7–18815 Filed 9–24–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9347]

RIN 1545–AY22

Corporate Estimated Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9347) that were published in the **Federal Register** on Tuesday, August 7, 2007 (72 FR 44338) providing guidance to corporations with respect to estimated tax requirements.

DATES: The correction is effective September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Timothy Sheppard at (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 6425 and 6655 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9347) contain an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6655–2 is amended by revising the fifth sentence of paragraph (g)(2) *Example.* to read as follows:

§ 1.6655–2 Annualized income installment method.

* * * * *

(g) * * *

(2) * * *

Example. * * * For the first installment period in 2008, ABC is permitted to recognize a deduction under section 199 of $3,000 ($50,000 × .06 = $3,000) subject to the wage limitation of $5,000 (50 percent of $10,000 of W–2 wages incurred during the first installment period). * * *

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–18807 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9340]

RIN 1545–BB64

Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 9340) that were published in the **Federal Register** on Thursday, July 26, 2007 (72 FR 41128) providing updated guidance on section 403(b) contracts of public schools and tax-exempt organizations described in section 501(c)(3). These regulations will affect sponsors of section 403(b) contracts, administrators, participants, and beneficiaries.

DATES: The correction is effective September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, John Tolleris at (202) 622–6060; concerning the regulations as applied to church-related entities, Robert Architect at (202) 283–9634 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 403(b) of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9340) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9340), which was the subject of FR Doc. 07–3649, is corrected as follows:

1. On page 41132, column 3, in the preamble, under footnote number 4, second line, the language ''402(g)(7)(A)(ii) by section 407(a) the Gulf'' is corrected to read ''402(g)(7)(A)(ii) by section 407(a) of the Gulf''.

2. On page 41138, column 1, in the preamble, under the paragraph heading ''*Employment Taxes*'', eighth line of the last paragraph of the column, the language ''l, Q&A–15, and § 35.3405(c)–1, Q&A–11'' is corrected to read ''1, Q&A–15, and § 35.3405(c)–1, Q&A–11''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–18808 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9347]

RIN 1545–AY22

Corporate Estimated Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 9347) that were published in the **Federal Register** on Tuesday, August 7, 2007 (72 FR 44338) providing guidance to corporations with respect to estimated tax requirements.

DATES: The correction is effective September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Timothy Sheppard at (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 6425 and 6655 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9347) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9347), which was the subject of FR Doc. E7–14946, is corrected as follows:

On page 44347, column 1, in the preamble, under the paragraph heading ''Effect on Other Documents'', line 10 from the bottom of the first paragraph of the column, the language ''rational underlying the conclusion in'' is corrected to read ''rationale underlying the conclusion in''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. E7–18812 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 54, and 602

[TD 9340]

RIN 1545–BB64

Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9340) that were published in the **Federal Register** on Thursday, July 26, 2007 (72 FR 41128) providing updated guidance on section 403(b) contracts of public schools and tax-exempt organizations described in section 501(c)(3). These regulations will affect sponsors of section 403(b) contracts, administrators, participants, and beneficiaries.

DATES: The correction is effective September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, John Tolleris at (202) 622–6060; concerning the regulations as applied to church-related entities, Robert Architect at (202) 283–9634 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 403(b) of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9340) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 54

Excise taxes, Pensions, Reporting and recording requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR parts 1, 54, and 602 are corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.403(b)–2 is amended by revising paragraph (b)(8)(i)(A), paragraph (b)(9), second sentence, and paragraph (b)(11), fourth sentence, to read as follows:

§ 1.403(b)–2 Definitions.

* * * * *

(b) * * *

(8) * * *

(i) * * *

(A) A State, but only with respect to an employee of the State performing services for a public school;

* * * * *

(9) * * * Subject to any rules in § 1.403(b)–1, this section, and §§ 1.403(b)–3 through 1.403(b)–11 that are specifically applicable to ministers, an employee also includes a minister described in section 414(e)(5)(A) when performing services in the exercise of his or her ministry.

* * * * *

(11) * * * Includible compensation also includes any elective deferral or other amount contributed or deferred by the eligible employer at the election of

the employee that would be includible in the gross income of the employee but for the rules of sections 125, 132(f)(4), 402(e)(2), 402(h)(1)(B), 402(k), or 457(b). * * *

* * * * *

■ **Par. 3.** Section 1.403(b)–3 is amended by revising paragraph (b)(3)(i), last sentence, paragraph (c)(2), last sentence, and paragraph (d)(1)(ii), last sentence, to read as follows:

§ 1.403–3 Exclusion for contributions to purchase section 403(b) contracts.

* * * * *

(b) * * *

(3) * * *

(i) * * * However, if a plan contains any optional provisions, the optional provisions must meet, in both form and operation, the relevant requirements under section 403(b), this section, and §§ 1.403(b)–4 through 1.403(b)–11.

* * * * *

(c) * * *

(2) * * * Similarly, a designated Roth account under a section 403(b) plan is subject to the rules of sections 401(a)(9)(A) and (B) and § 1.403(b)–6(e).

* * * * *

(d) * * *

(1) * * *

(ii) * * * However, any failure that is not an operational failure adversely affects all contracts issued under the plan, including: a failure to have contracts issued pursuant to a written defined contribution plan which, in form, satisfies the requirements of § 1.403(b)–1, § 1.403(b)–2, this section, and §§ 1.403(b)–4 through 1.403(b)–11 (a written plan failure); a nondiscrimination failure; or an employer eligibility failure.

* * * * *

■ **Par. 4.** Section 1.403(b)–4 is amended by revising paragraph (b)(1), third sentence, paragraph (c)(3)(i)(B)(*2*), and paragraph (e)(7), second sentence, to read as follows:

§ 1.403(b)–4 Contribution limitations.

* * * * *

(b) * * *

(1) * * * For purposes of section 415, contributions made for a participant are aggregated to the extent applicable under sections 414(b), (c), (m), (n), and (o). * * *

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) * * *

(*2*) The total elective deferrals described in section 402(g)(7)(A)(ii) made for the qualified employee by the qualified organization for prior years; or

* * * * *

(e) * * *

(7) * * * In such a case, there is first taken into account his or her service during the annual work period for which the last year of service's includible compensation is being determined; then there is taken into account his or her service during his or her next preceding annual work period based on whole months; and so forth until the employee's service equals, in the aggregate, one year of service.

* * * * *

■ **Par. 5.** Section 1.403(b)–6 is amended by revising paragraph (e)(3) and paragraph (e)(5), last sentence, to read as follows:

§ 1.403(b)–6 Timing of distributions and benefits.

* * * * *

(e) * * *

(3) * * * The required beginning date for purposes of section 403(b)(10) is April 1 of the calendar year following the later of the calendar year in which the employee attains age 70½ or the calendar year in which the employee retires from employment with the employer maintaining the plan. However, for any section 403(b) contract that is not part of a governmental plan or church plan, the required beginning date for a 5-percent owner is April 1 of the calendar year following the calendar year in which the employee attains age 70½.

* * * * *

(5) * * * See also § 1.403(b)–9(a)(5) for additional rules relating to annuities payable from a retirement income account).

* * * * *

■ **Par. 6.** Section 1.403(b)–11 is amended by revising paragraph (c)(2) to read as follows:

§ 1.403(b)–11 Applicable dates.

* * * * *

(c) * * *

(2) In the case of a loan or other extension of credit to the employer that was entered into under a retirement income account before July 26, 2007, the plan does not fail to satisfy § 1.403(b)–9(a)(2)(i)(C) on account of the loan or other extension of credit if the plan takes reasonable steps to eliminate the loan or other extension of credit to the employer before the applicable date for § 1.403(b)–9(a)(2) or as promptly as practical thereafter (including taking steps after July 26, 2007 and before the applicable date).

* * * * *

■ **Par. 7.** Section 1.414(c)–5 is amended by revising paragraph (g) *Example 3.(i),* first sentence, to read as follows:

§ 1.414(c)–5 Certain tax-exempt organizations.

* * * * *

(g) * * *

Example 3. * * *

(*i*) * * * Organizations O and P are each tax-exempt organizations under section 501(c)(3). * * *

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–18809 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

Privacy Act; Implementation

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Internal Revenue Service published a notice of proposed rulemaking on November 28, 2005 to remove the exemption claimed for the system of records Treasury/IRS 34.022, pursuant to 5 U.S.C. 552a(j)(2) and in its place claim an exemption pursuant to 5 U.S.C. 552a(k)(5).

EFFECTIVE DATE: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Written inquiries as they relate to this system should be directed to Mary Anderson, IRS, Personnel Security and Investigations, 5205 Leesburg Pike, Suite 510, Falls Church, VA 22041–3802.

SUPPLEMENTARY INFORMATION: The Internal Revenue Service published a notice of proposed rulemaking on November 28, 2005, at 70 FR 71245, to remove the (j)(2) exemption and in its place claim the exemption pursuant to 5 U.S.C. 552a(k)(5) exemption. No comments were received by the IRS.

The records in this system are no longer compiled for law enforcement purposes and do not qualify for the (j)(2) exemption. The (k)(5) exemption is more appropriate because the investigatory material contained in this system of records is collected and maintained solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information.

The (j)(2) exemption was initially applied to this system which was the database used for all Inspection (now the Treasury Inspector General for Tax Administration [TIGTA]) investigations. TIGTA is not a part of IRS and no Inspection investigations are maintained in this system, with the exception of personnel security investigations. Under 5 U.S.C. 552a(k)(5), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information. This is applicable only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

The sections of 5 U.S.C. 552a from which the systems of records are exempt include in general those providing for individuals' access to or amendment of records. When such access or amendment would cause the identity of a confidential source to be revealed, it would impair the future ability of the Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. In addition, the systems should be exempt from 5 U.S.C. 552a(e)(1) which requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The Department believes that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

A separate notice revising the system of records entitled ''IRS 34.022—National Background Investigations Center Management Information System'' was published in the **Federal Register** on November 28, 2005, at 70 FR 71376. Among other changes, the name of the system of records was changed to ''Automated Background Investigations System (ABIS).''

As required by Executive Order 12866, it has been determined that this final rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The final rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule would not impose new record keeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

■ Part 1 subpart C of Title 31 of the Code of Federal Regulations amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301, 31 U.S.C. 321, subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

■ 2. Section 1.36 of subpart C is amended as follows:

■ a. Paragraph (c)(1)(viii) is amended by removing ''IRS 34.022—National Background Investigations Center Management Information System'' from the table.

■ b. Paragraph (m)(1)(viii) is amended by adding the following text to the table in numerical order:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(m) * * *

(1) * * *

(viii) * * *

Number	Name of system
* * * * *	
IRS 34.022	Automated Background Investigations System (ABIS)
* * * * *	

* * * * *

Dated: September 18, 2007.

Peter B. McCarthy,

Assistant Secretary for Management and Chief Financial Officer.

[FR Doc. E7–18859 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD–2007–HA–0026]

RIN 0720–AB14

TRICARE; Changes Included in the John Warner National Defense Authorization Act for Fiscal Year 2007; Authorization of Anesthesia and Other Costs for Dental Care for Children and Certain Other Patients

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule implements section 702 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109–364. The rule provides coverage of contracted medical care with respect to dental care beyond that care required as a necessary adjunct to medical or surgical treatment. The entitlement of institutional and anesthesia services is authorized in conjunction with non-covered dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under. This final rule does not eliminate any contracted medical care that is currently covered for spouses and children. The entitlement of anesthesia services includes general anesthesia services only. Institutional services include institutional benefits associated with both hospital and in-out surgery settings. Patients with developmental, mental, or physical disabilities are those patients with conditions that prohibit dental treatment in a safe and effective manner. Therefore, it is medically or psychologically necessary for these patients to require general anesthesia for dental treatment.

EFFECTIVE DATE: This is rule is effective September 25, 2007.

ADDRESSES: TRICARE Management Activity, Skyline 5, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Col. Gary C. Martin, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, telephone (703) 681–0039.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule Provisions

This final rule amends the coverage of contracted medical care with respect to dental care beyond that care required as a necessary adjunct to medical or surgical treatment. The entitlement of institutional and anesthesia services is authorized in conjunction with non-covered dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under. This final rule does not eliminate any contracted medical care that is currently covered for spouses and children. The entitlement of anesthesia services includes general anesthesia services only. Institutional services includes institutional benefits associated with both hospital and in-out surgery settings. Patients with developmental, mental, or physical disabilities are those patients with conditions that prohibit dental treatment in a safe and effective manner. Therefore, it is medically or psychologically necessary for these patients to require general anesthesia for dental treatment.

Prior to section 702 of the John Warner National Defense Authorization Act for Fiscal Year 2007, general anesthesia and institutional services were not covered in conjunction with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients of any age through TRICARE medical plan contracts unless it qualified as adjunctive dental care. For military families who have children that require extensive dental treatment under general anesthesia, the two options available were to have the care provided locally at a Department of Defense (DoD) facility or a civilian facility. If the care was provided in a DoD facility, the total costs to the family are minimal.This option remains available. There are, however, locations where this care is not available from a DoD facility due to facility constraints (no operating room) and/or lack of dental specialists. For dental care provided in a civilian facility, families currently enrolled in the TRICARE Dental Program (TDP) or TRICARE Retiree Dental Program (TRDP) are provided with coverage for dental care with applicable cost-shares. These include a 40-percent cost-share for general anesthesia and varying cost-shares for dental procedures (fillings, crowns, root canals) completed in the operating room setting. There is an annual maximum benefit for the TDP and TRDP of $1,200 per enrollee. This means that the total payments covered services for each enrolled member will not exceed $1,200 in any contract year. In addition, the TRDP has a deductible of $50 per patient per year, not to exceed $150 per family per year. Frequently, the annual maximum is reached for those pediatric patients who require extensive dental treatment under general anesthesia. Once the annual maximum is reached, the remainder of the billed charges is the enrollee's responsibility. The hospital costs (institutional services) are covered by neither the TDP nor the TRDP. For families with dental insurance other the TDP or TRDP, their plan structure may have defrayed some costs but out-of-pocket costs remained significant. Families without any dental insurance incurred the total costs of dental, anesthesia, and institutional services.

II. Review of Public Comments

We provided a 60-day comment period on the proposed rule which was published in the **Federal Register** on March 23, 2007 (72 FR 13721). We received one document with joint comments from the American Dental Association (ADA) and the American Academy of Pediatric Dentists (AAPD). All comments were in support of the proposed rule. The ADA and AAPD concurred that the proposed rule accurately interpreted section 702 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109–364. They also concurred with the definitions and requirements as stated in the proposed rule. A waiver of the preauthorization requirement will be provided for beneficiaries receiving care in the transition period between October 17, 2006, the effective date of the change in the law upon which this final rule is based, and the implementation date, by applying the same criteria in a post-authorization. The ADA and AAPD recommended that post-authorization reviews utilize the same criteria as preauthorization reviews, and that this transition plan be referenced in the final rule. Post authorization review procedures will utilize the same criteria as preauthorization reviews; however, post authorization procedures will be addressed and outlined in detail in the TRICARE Manuals and are not included in this final rule.

III. Regulatory Procedures

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. The 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 rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this final rule is not subject to any of these requirements.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). We have examined the impact(s) 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.

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—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

■ 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 199.4 is amended by removing the first sentence of paragraph (e)(10) introductory text and adding two sentences in its place; revising the first sentence of paragraph (e)(10)(iii); and adding paragraph (e)(10)(vi) to read as follows:

§ 199.4 Basic Program Benefits.

* * * * *

(e)* * *

(10) *Dental.* TRICARE/CHAMPUS does not include a dental benefit. However, in connection with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under, only institutional and anesthesia services may be provided as a benefit.* * *

* * * * *

(iii) *Preauthorization required.* In order to be covered, adjunctive dental care requires preauthorization from the Director, TRICARE Management Activity, or a designee, in accordance with paragraph (a)(12) of this section.* * *

* * * * *

(vi) *Anesthesia and institutional costs for dental care for children and certain other patients.* Institutional benefits specified in paragraph (b) of this section may be extended for hospital and in-out surgery settings related to noncovered, nonadjunctive dental care when such outpatient care or inpatient stay is in conjunction with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under. For these patients, anesthesia services will be limited to the administration of general anesthesia only. Patients with developmental, mental, or physical disabilities are those patients with conditions that prohibit dental treatment in a safe and effective manner. Therefore, it is medically or psychologically necessary for these patients to require general anesthesia for dental treatment. Patients with physical disabilities include those patients having disabilities as defined in § 199.2 as a serious physical disability. Preauthorization by the Director, TRICARE Management Activity, or a designee, is required for such outpatient care or inpatient stays to be covered in the same manner as required for adjunctive dental care described in paragraph (e)(10)(iii) of this section. Regardless of whether or not the preauthorization request for outpatient care or hospital admission is approved and thus qualifies for institutional benefits, the professional service related to the nonadjunctive dental care is not covered, with the exception of coverage for anesthesia services.

* * * * *

Dated: September 13, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4655 Filed 9–24–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–045]

RIN 1625–AA08

Special Local Regulations for Marine Events; John H. Kerr Reservoir, Clarksville, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''Clarksville Hydroplane Challenge'', a power boat race to be held on the waters of the John H. Kerr Reservoir adjacent to Clarksville, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the John H. Kerr Reservoir adjacent to Clarksville, Virginia during the power boat race.

DATES: This rule is effective from 7:30 a.m. on October 6, 2007 to 6:30 p.m. on October 7, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–07–045 and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 16, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; John H. Kerr Reservoir, Clarksville, VA, in the **Federal Register** (72 FR 38808). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support vessels, spectator craft and other vessels transiting the event area. However, advance notifications will be made to users of John H. Kerr Reservoir via, local notice to mariners, commercial radio stations, and area newspapers.

Background and Purpose

On October 6 and 7, 2007, the Virginia Boat Racing Association will sponsor the ''Clarksville Hydroplane Challenge'', on the waters of the John H. Kerr Reservoir. The event will consist of approximately 70 inboard hydroplanes racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the John H. Kerr Reservoir, Clarksville, Virginia.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will prevent traffic from transiting a portion of the John H. Kerr Reservoir adjacent to Clarksville, Virginia, during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers, and local radio stations, so mariners can adjust their plans accordingly. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered

whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit this section of the John H. Kerr Reservoir during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 7:30 a.m. to 6:30 p.m. on October 6 and 7, 2007. The regulated area will apply to a segment of the reservoir adjacent to State Route 15 Highway Bridge and Occoneechee State Park. Marine traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. We have made a determination that this action is not likely to have a significant effect on the human environment. The marine event consisting of hydroplane boats racing along a 1.25 mile oval race course

within John H. Kerr Reservoir near Clarksville, Virginia, does not introduce any significant environmental impacts in the area of the event and/or adjacent waterways.

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

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35–T05–045 to read as follows:

§ 100.35–T05–045 John H. Kerr Reservoir, Clarksville, Virginia.

(a) *Regulated area.* The regulated area is established for the waters of the John H. Kerr Reservoir, adjacent to the State Route 15 Highway Bridge and Occoneechee State Park, Clarksville, Virginia, from shoreline to shoreline, bounded on the south by a line running northeasterly from a point along the shoreline at latitude 36°37′14″ N, longitude 078°32′46.5″ W, thence to latitude 36°37′39.2″ N, longitude 078°32′08.8″ W, and bounded on the north by the State Route 15 Highway Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Clarksville Hydroplane Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. on October 6 to 6:30 p.m. on October 7, 2007.

Dated: September 11, 2007.

Neil O. Buschman,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. E7–18883 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–060]

RIN 1625–AA08

Special Local Regulations for Marine Events; Back River, Poquoson, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Poquoson Seafood Festival Workboat Races'', a marine event to be held October 14, 2007 on the waters of the Back River, Poquoson, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Back River during the event.

DATES: This rule is effective from 12 p.m. to 5 p.m. on October 14, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–07–060 and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 16, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Back River, Poquoson, VA in the **Federal Register** (72 FR 38806). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support vessels, spectator craft and other vessels transiting the event area. However, advance notifications will be made to users of Back River via marine information broadcasts, local notice to mariners, commercial radio stations, and area newspapers.

Background and Purpose

On October 14, 2007, the City of Poquoson will sponsor ''Poquoson Seafood Festival Workboat Races'' on the Back River, immediately adjacent and south of Messick Point. The event will consist of approximately 60 traditional Chesapeake Bay deadrise workboats racing along a marked straight line race course in heats of 2 to 4 boats for a distance of approximately 600 yards. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Back River, Poquoson, Virginia.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will prevent

traffic from transiting a portion of the Back River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, area newspapers, and local radio stations, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area at slow speed between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the effected portions of the Back River during the event.

Although this regulation prevents traffic from transiting a portion of the Back River during the event, this rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD

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

We have made a determination that this action is not likely to have a significant effect on the human environment. The proposed marine event consisting of deadrise workboats racing along a marked straight line course within the Back River does not introduce any significant environmental impacts in the area of the event and or adjacent waterways. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35–T05–060 to read as follows:

§ 100.35–T05–060, Back River, Poquoson, VA.

(a) *Definitions:* The following definitions apply to this section:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Poquoson Seafood Festival Workboat races under the auspices of a Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(b) *Regulated area* includes the waters of the Back River, Poquoson, Virginia, bounded on the north by a line drawn along latitude 37°06′30″ North, bounded on the south by a line drawn along latitude 37°06′15″ North, bounded on the east by a line drawn along longitude 076°18′52″ West and bounded on the west by a line drawn along longitude 076°19′30″ West. All coordinates reference Datum NAD 1983.

(c) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Effective period.* This section will enforced from 12 p.m. to 5 p.m. on October 14, 2007.

Dated: September 11, 2007.

Neil O. Buschman,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. E7–18855 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–024]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Belle Chasse, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 23 bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. This temporary rule is issued to facilitate movement of vehicular traffic for the New Orleans Open House 2007 Air Show, to be held at the U.S. Naval Air Station, Joint Reserve Base at Belle Chasse, Louisiana.

DATES: This deviation is effective from 3:30 p.m. on Saturday, October 27, 2007, until 7:45 p.m. on Sunday, October 28, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 671–2128. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 671–2129.

SUPPLEMENTARY INFORMATION: The Department of the Navy requested a temporary rule changing the operation of the State Route 23 vertical lift span drawbridge. The change accommodates the additional volume of vehicular traffic that the New Orleans Open House Air Show generates each year. A large amount of the general public is expected to attend the New Orleans Open House Air Show on each day. The change allows for the expeditious dispersal of the heavy volume of vehicular traffic expected to depart the Naval Air Station, Joint Reserve Base following the event. This event has been held annually on or about the last weekend in October. This year, the event is being held on the weekend of October 26–28, 2007. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 3:30 p.m. until 6:45 p.m. on Saturday, October 27, 2007 and from 3:30 p.m. until 7:45 p.m. on Sunday, October 28, 2007.

The State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 100 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows, commercial fishing vessels, and occasional recreational craft. Mariners may use the Gulf Intracoastal Waterway (Harvey Canal) to avoid unnecessary delays.

The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units. It has been determined that this closure will not have a significant effect on vessel traffic.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular

operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 13, 2007.

David M. Frank,

Bridge Administrator.

[FR Doc. E7–18881 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

New Standards for Mailing Sharps Waste and Other Regulated Medical Waste

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service™ is revising its standards for mailing medical waste so that medical professionals as well as individuals can use a larger container to mail medical waste to disposal sites. The new standards allow a maximum mailpiece weight limit of 35 pounds for packages approved as ''Medical Professional Packaging.''

EFFECTIVE DATE: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Bert Olsen, 202–268–7276.

SUPPLEMENTARY INFORMATION:

Background

We published a proposed rule in the **Federal Register** (72 FR 20462, April 25, 2007) to revise the standards for mailing sharps and other regulated medical waste containers. Our proposal allowed for a single, larger primary receptacle that could accommodate several pre-primary sharps receptacles (sharps receptacles normally used in doctors' offices), as well as several tie-closed bags of other regulated medical waste. The weight limit of the mailpiece would be 35 pounds.

Comments Received

We received comments from two entities: a USPS-authorized sharps vendor and a coalition of parties interested in the safe disposal of needles. Both were in support of the changes and offered the following comments:

1. *Comment:* The term ''Medical Professional Packaging'' implies that only medical professionals can use it. Change the name so it is clear that it can be used by anyone.

The Postal Service believes the term, ''Medical Professional Packaging'' is an appropriate term that represents a mailpiece most often used by medical professionals. However, we will include language in the *Domestic Mail Manual* (DMM) that clarifies that individuals as well as other entities can use ''Medical Professional Packaging.''

2. *Comment:* Require that pre-primary receptacles comply with Food and Drug Administration (FDA) 510(k) approval rather than Occupational Safety and Health Administration (OSHA) standards.

The Postal Service believes that requiring pre-primary receptacles to meet OSHA standards as identified in 29 CFR 1910.1030 is the best method of verifying governmental compliance for sharps and other regulated medical waste receptacles containing bloodborne pathogens. These pre-primary receptacles are then triple packaged in accordance with further parcel preparation requirements for the mailing of sharps mailpieces. Therefore, the final rule adopts the requirement that pre-primary receptacles meet OSHA compliance standards as published in the proposed rule.

We adopt the following amendments to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.4.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Revise the following sections of the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

601.10 Hazardous Materials

* * * * *

10.17 Infectious Substances (Hazard Class 6, Division 6.2)

* * * * *

10.17.5 Sharps Waste and Other Mailable Regulated Medical Waste

* * * * *

10.17.5b Packaging

* * * * *

[Revise first sentence to 10.17.5b5 as follows]

Each mailpiece must not weigh more than 25 pounds, except for Medical Professional Packages as identified in 10.17.5c, that may not weigh more than 35 pounds.* * *

* * * * *

[Add a new 10.17.5c, and renumber current items 5c through 5f as new 5d through 5g:]

10.17.5c Medical Professional Packages

Medical Professional Packages, while intended for use by small medical offices, are not limited to use by medical offices only. One primary receptacle larger than 5 gallons in volume may be used for mailing pre-primary sharps receptacles (sharps receptacles normally used in doctors' offices) and other regulated medical waste under the following conditions:

1. The mailpiece must meet all the requirements in 601.10.17.5 except for the primary receptacle capacity limits of 10.17.5b1.

2. Only rigid, securely closed, puncture and leak-resistant pre-primary sharps receptacles that meet or exceed Occupational Safety and Health Administration standards as identified in 29 CFR 1910.1030, may be placed inside the primary receptacle. Each pre-primary sharps container may contain no more than 50 ml (1.66 ounces) of residual waste liquid. Several pre-primary sharps receptacles may be enclosed in the single primary receptacle.

3. Multiple tie-closed plastic bags of regulated medical waste may be placed inside the single primary receptacle.

4. The primary receptacle must be lined with a plastic bag at least 4 mil in thickness and must include sufficient absorbent material within the liner to absorb all residual liquid in the primary receptacle.

5. The mailpiece must not weigh more than 35 pounds.

* * * * *

601.10.17.5d Mailpiece Labeling, Marking, and Documentation

[Add new number 1, and renumber current items 1 through 7 as new 2 through 8:]

1. For Medical Professional Packages, the additional marking ''Medical Professional Packaging'' must be clearly printed in lettering at least 2 inches high on the address side of the outer shipping container.

* * * * *

[Add two new sentences to the introductory text at the beginning of redesignated 10.17.5f as follows:]

601.10.17.5f Testing Criteria

Packages tested for approval as Medical Professional Packages may not be tested using pre-primary containers that are currently or have previously been approved as USPS primary containers. Test reports must identify by brand name the pre-primary containers used during testing. * * *

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E7–18626 Filed 9–24–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2007–0174; FRL–8473–1]

Technical Amendments to Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Correction of Effective Date Under Congressional Review Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under Congressional Review Act.

SUMMARY: On July 25, 2007 (72 FR 40746), the EPA published in the **Federal Register** a final rule that approved a request that the Franklin County nonattainment area (''Franklin County Area'' or ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS) and that approved the maintenance plan and the 2002 base-year emissions inventory as revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA). That July 25, 2007 final rule established an effective date of July 25, 2007. This document corrects the effective date of the rule to July 27, 2007 to be consistent with sections 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on September 25, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–0174. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the Congressional review Act precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the Government Accountability Office (GAO). After publication of the July 25, 2007 final rule (72 FR 40746) EPA discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on July 25, 2007 (72 FR 40746), by operation of law, the rule did not take effect on July 25, 2007, as stated therein. After EPA discovered this error, EPA complied with its obligations under the Congressional Review Act by submitting the rule to both Houses of Congress and the GAO on July 27, 2007. This document corrects certain dates displayed in 40 CFR parts 52 and 81 to reflect the date on which EPA satisfied the procedural requirements of the Congressional Review Act.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is memorializing in this action that EPA's compliance with the congressional review requirements of the Congressional Review Act, has as a matter of law, changed the effective date of the July 25, 2007 action, and EPA has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, because today's action does not create any new regulatory requirements and the submittal of the rule to Congress has, by operation of law, changed the effective date of the July 25, 2007 rule to July 27, which this action merely memorializes, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the Congressional Review Act, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the July 25, 2007, **Federal Register** should be penalized if they were complying with the rule as promulgated.

II. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources.

Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small

governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Because this action allows the state to avoid adopting or implementing other requirements, affects the status of a geographical area, or does not impose any new requirements on sources, this action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

This final rule only amends the effective date of the underlying rule as promulgated on July 25, 2007 (72 FR 40746); it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review of today's final rule is limited to the amended effective date. Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action amending consistent with the provisions of the Congressional Review Act the effective date of the July 25, 2007 (72 FR 40746) rule approving the redesignation of the Franklin County Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year emissions inventory, and the MVEBs identified in the maintenance plan, may not be challenged later in proceedings to enforce its requirements.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: September 14, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan and the 2002 Base Year Emissions Inventory for the Franklin County, Pennsylvania Area to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Franklin County Area (Franklin County).	9/20/06, 11/08/06	7/25/07, 72 FR 40746	The SIP effective date is 7/27/07.
*	*	*	*	*

■ 3. Section 52.2037 is amended by revising paragraph (m) to read as follows:

§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(m) Determination—EPA has determined that, as of July 27, 2007, the Franklin County ozone nonattainment

area has attained the 1-hour ozone standard and that the following requirements of section 172(c)(2) of the Clean Air Act do not apply to this area for so long as the area does not monitor any violations of the 1-hour ozone standard of 40 CFR 50.9: the attainment demonstration and reasonably available control measure requirements of section 172(b)(1), the reasonable further progress requirement of section 172(b)(2), and the related contingency requirements of section 172(c)(9). If a violation of the 1-hour ozone NAAQS is monitored in the Franklin County 1-hour ozone nonattainment area, these determinations shall no longer apply.

PART 81—[AMENDED]

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

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

■ 2. In § 81.339, the table entitled ''Pennsylvania-Ozone (8-Hour Standard)'' is amended by revising the entry for the Franklin County, PA Area to read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—OZONE (8–HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Franklin Co., PA: Franklin County	July 27, 2007	Attainment.		
* * *	*	*	*	*

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

* * * * *

[FR Doc. E7–18835 Filed 9–24–07; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[IB Docket No. 04–47; FCC 07–118]

Modification of the Rules and Procedures Governing the Provision of International Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Report and Order, the Federal Communications Commission amends its rules governing the provision of international telecommunications service. The Commission amends the rule regarding the discontinuance of international services to reduce the notice period to 30 days. The Commission also clarifies its rules governing the provision of international roaming service by U.S. Commercial Mobile Radio Service (CMRS) carriers, changes in de jure control of an international section 214 authorization holder, and the treatment of asset acquisitions. The Commission declines, however, to modify its rule governing the provision of services by a subsidiary of an international section 214 authorization holder. The Commission also declines to adopt changes to its rules governing a CMRS carrier's 214 authorization process. However, the Commission does amend its cable landing license application rules and application procedures to require applicants to certify their compliance with the Coastal Zone Management Act (CZMA).

DATES: Effective October 25, 2007, except for the amendments to §§ 1.767(k)(4), 63.19(a)(1) and (a)(2), and 63.24(c) which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules. Written comment by the public on the modified information collection requirements are due November 26, 2007.

FOR FURTHER INFORMATION CONTACT: David Krech, Policy Division, International Bureau at (202) 418–7443 or Cara Grayer, Policy Division, International Bureau at (202) 418–2960. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202–418–0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 04–47, FCC 07–118, adopted June 20, 2007 and released on June 22, 2007. The full text of the Report and Order is available for public inspection and copying during regular business hours at the Commission's Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or via e-mail *FCC@BCPIWEB.com*.

Summary of Report and Order

1. On March 4, 2004, the Commission released a Notice of Proposed Rulemaking (NPRM) (*Amendment of Parts 1 and 63 of the Commission's Rules*, IB Docket No. 04–47, 69 FR 13276, March 22, 2004) seeking comment on several potential changes to its international section 214 authorization process and to the rules relating to the provision of U.S.-international telecommunications services. The Commission sought comment on whether to: (1) Amend the procedures for discontinuance of an international service; (2) amend the rules to clarify that U.S.-authorized resale carriers can resell the U.S.-inbound international services of either U.S. carriers or foreign carriers; (3) amend the rules to allow commonly controlled subsidiaries to provide international service under their parent's section 214 authorization; (4) revise the international section 214 requirements placed on Commercial Mobile Radio Service (CMRS) carriers; (5) permit a 30-day notification period for CMRS carriers to provide international resale service; (6) amend § 1.767 of the Commission's rules governing procedures for consideration of applications for cable landing licenses in order to assure compliance with the Coastal Zone Management Act of 1972 (CZMA); and (7) amend the

ownership and other rules to clarify their intent. Ten parties filed comments in response to the Commission's NPRM. Based on review of the record in this proceeding and for the reasons set forth in the Report and Order, the Commission modified its rules governing the provision of international telecommunications service.

2. Discontinuance Issues: The procedures for discontinuing an international service are contained in § 63.19 of the Commission's rules. This rule sets forth different procedures for discontinuing international service, depending on whether a carrier is classified as a non-dominant, dominant, or a CMRS carrier. Prior to this Order, the notice period for the discontinuance of international service by non-dominant carriers differed from the notice period governing the discontinuance of a domestic service provided by such carriers. In this Order, the Commission amends its rules to reduce the notification period for a non-dominant carrier's discontinuance of international service from 60 days to 30 days, to be more consistent with the minimum period generally allowed before a non-dominant carrier can receive authority to discontinue domestic service. In addition, the Commission modifies its rules to require international carriers to file a copy of the notification with the Commission at the same time they provide notification to their affected customers.

3. International Roaming Issues: International roaming allows the customers of U.S.-licensed CMRS carriers to use the networks of foreign-licensed wireless carriers to make calls while traveling in foreign countries. Roaming agreements between U.S and foreign carriers may permit U.S. carriers' customers that are roaming in other countries to call the United States or other countries. U.S.-CMRS carriers bill their customers for international roaming service, and their international roaming rates and plans are available on the carriers' Web sites.

As an initial matter, the Commission finds that international roaming involves call termination in the United States that comes within the Commission's jurisdiction. The Commission amends §§ 63.18(e)(2) and 63.23(c) of its rules to permit explicitly all U.S.-authorized resale carriers to provide international service by reselling the international services of any other authorized U.S. common carrier or foreign carrier, or by entering into a roaming or other arrangement with a foreign carrier. The Commission clarifies that a U.S. carrier's resale authority includes authority to provide U.S. inbound or outbound service via resale or other arrangement between the carrier and any other authorized U.S. carrier or foreign carrier. This rule change eliminates uncertainty about the ability of U.S.-authorized resale carriers to provide U.S.-inbound service to customers under a roaming or other arrangement that a U.S. carrier has with a foreign carrier, including arrangements that allow for customer use of a calling card issued by a U.S. carrier.

4. Commonly-Controlled Subsidiary Issues: Under the Commission's rules, a commonly-controlled subsidiary must obtain its own international section 214 authorization, while a wholly-owned subsidiary may provide service pursuant to its parent company's authorization. In this Order, the Commission finds that it would not be in the public interest to amend its rules to allow commonly-controlled subsidiaries to provide international service pursuant to their parent's international section 214 authorization. The Commission reiterated that the differences in ownership between a parent and a subsidiary that it controls but does not wholly own may raise issues that require separate review.

5. International 214 Authorizations for CMRS Carriers: The Commission sought comment on whether it should exempt CMRS carriers from the requirement to file an application for international section 214 authority prior to providing service. The Commission decided not to make any changes to the procedures for granting international section 214 authorizations at this time. The Commission intends to develop a fuller record on possible changes further streamlining the application process that would apply to all carriers providing international service, including, but not limited to, CMRS carriers as a part of a larger review. The Commission intends to address CMRS carrier issues as a part of that proceeding, and the docket will be kept open until that time.

6. Transfer of Control: The Commission amends § 63.24 to clarify that a diminution of an entity's ownership interest in a carrier from more than 50 percent to 50 percent or less constitutes a transfer of control that must be reported to the Commission.

7. Asset Acquisition: The Commission adds a note to § 63.24 to clarify that an asset acquisition that will not result in a loss of service for its customers should be treated as an assignment rather than a discontinuance of service. Specifically, the Commission clarifies that when a carrier sells its customer base, or a portion of its customer base, to another carrier, the sale of assets will be treated as an assignment, which requires prior Commission approval under § 63.24 of the rules.

8. Modification of Cable Landing License Rules: The Coastal Zone Management Act (CZMA) was enacted to encourage the participation of and cooperation among state, local, regional, and federal government agencies that have programs that affect the coastlines. The statute authorizes states to develop coastal management programs, subject to federal approval by NOAA. A coastal management program defines permissible land and water use within the state coastal zone. Under 16 U.S.C. 1456(c)(3)(A), states with federally-approved management programs are entitled to review such uses for consistency with those programs any ''required federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state.'' In the NPRM, the Commission sought comment on whether to amend its rules to require applicants for a cable landing license to comply with the CZMA.

9. NOAA has regulatory responsibility over the state certification process and requirements for all applicants for federal licenses for activities in or outside of coastal zones under CZMA, 16 U.S.C. 1456(c)(3)(A). NOAA's regulations, 15 CFR part 930, subpart D, provide a process to determine when federal license or permit activities are subject to consistency review. If review is required, the applicant must certify that the proposed activity complies with the enforceable policies of a state management program, and all relevant states must concur in the applicant's certification before the Federal agency grants the license.

10. The Commission amends its cable landing license rules to comport with CZMA requirements to apply to applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system. The Commission will not consider the requirements of the CZMA to apply to applications for changes of ownership of the submarine cable system or landing stations (transfers or control or assignments) or other modifications of the cable landing license that do not effect the construction of the submarine cable system. The Commission therefore adds a note to § 1.767(a) of its rules clarifying that, in accordance with the express requirement that a federal license applicant ''shall provide [the certification] in the application to the

licensing or permitting agency,'' all consistency certifications required by section 1456(c)(3)(A) must be included in the application filed with the Commission for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system.

11. In accordance with the requirement that state concurrence is to precede the grant of the cable landing license and to prevent the construction of any submarine cable system or cable landing station while a coastal state is reviewing the applicant's consistency certification, the Commission will not streamline the application or take any action on a cable landing license application pending notification, or documentation from the applicant, that all required state concurrences have been received or may be presumed. In sum, the Commission revises § 1.767 to clarify that any consistency certifications required by section 1456(c)(3)(A) must be included in cable landing license applications filed with the Commission to construct and operate or modify construction of a previously approved submarine cable system, and that construction or modification may not commence until all coastal states have concurred or may be presumed to have concurred with any required certifications included in the cable landing application. Further, § 1.767(k)(4) clarifies that the submarine cable system will not be located in any states where the cable landing licenses may be subject to the consistency certification requirements of the CZMA.

Paperwork Reduction Act

12. This Report and Order contains either new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law No. 107–198, (see 44 U.S.C. 3506 (c)(4)), the Commission previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

13. All comments regarding the requests for approval of the information collection should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*; phone 202–418–0214.

Final Regulatory Flexibility Analysis

14. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a Regulatory Flexibility Act analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

15. As stated in the Report and Order, this proceeding was initiated as part of the Commission's 2002 biennial regulatory review process. Through this review, the Commission has sought to: facilitate the introduction of new services; provide customers with more choices, innovative services, and competitive prices; improve the processing of authorization applications and regulation of international services; and lessen the regulatory burdens placed on carriers. In this proceeding, the Commission examined the rules regarding the authorization of international services under section 214 of the Act.

16. In the NPRM, the Commission certified that the rules proposed in this proceeding would not have a significant economic impact on a substantial number of small entities. The Commission stated that the proposals would be in the public interest and would lessen the burdens on all carriers, both small and large, providing international common carrier service pursuant to section 214 of the Act. In the Order, the Commission adopts many of the rule changes proposed in the NPRM. Thus, we certify that rule changes adopted in this Order will have no significant economic impact on a substantial number of small entities.

17. In the Order, the Commission amends its rules regarding the discontinuance of international service by aligning the international rules with those rules for domestic service. The Order will amend the submarine cable landing rules to require applicants to include information regarding an applicant's compliance with the Coastal Zone Management Act of 1972. The Order clarifies the rules to eliminate confusion as to whether a CMRS carrier requires authority to resell U.S. inbound service of a foreign carrier for the U.S.–CMRS carrier's customers that are roaming in a foreign country. The Order requires a carrier to notify the Commission when there is a change in ownership to 50 percent or less. Also, a diminution of an entity's ownership interest in a carrier to 50 percent or less constitutes a transfer of control that must be reported to the Commission. The Order amends its rules to clarify that an asset acquisition that will not result in a loss of service for its customers should be treated as an assignment rather than a discontinuance of service. In addition, the Report and Order amends the rules so that when a carrier sells its customers or a portion of its customers to another carrier, the sale of assets will be treated as an assignment.

18. The rule changes adopted in this Report and Order will benefit all entities, both small and large. The rules for discontinuing international service will be consistent with the rules for discontinuing domestic service, thereby eliminating the disparities between domestic and international service rules. The Commission finds that it will be in the public interest to eliminate the requirement that CMRS carriers seek authority for the resale of inbound traffic. Rather, this authority will be included in the carrier's global resale authority. This rule change will reduce the filing requirements on CMRS carriers, many of which are small entities. Although the majority of submarine cable landing license applicants is not considered small entities, the rule changes affecting these applicants are nominal and will ensure that our rules are consistent with the Coastal Zone Management Act of 1972.

19. The rules adopted in the Report and Order are administrative and will streamline and clarify our processes. Therefore, we find that the rules adopted in this Order will not have a significant economic impact on a substantial number of small entities.

Ordering Clauses

20. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j) 11, 201–205, 211, 214, 219, 220, 303(r), 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 211, 214, 219, 220, 303(r),

309 and 403, and sections 34–39 of the Cable Landing License Act, 47 U.S.C. 34–39, this *report and order is hereby adopted*.

21. *It is ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *report and order*, including the Final Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

22. *It is further ordered* that the Regulatory Flexibility Certification, as required by section 604 of the Regulatory Flexibility Act and as set forth above *is adopted*.

List of Subjects in 47 CFR Parts 1 and 63

Cable, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 63 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i) , 154 (j), 155, 157, 225, 303(r) and 309.

■ 2. Section 1.767 is amended by adding a note to paragraph (a)(10) and by adding new paragraph (k)(4) to read as follows:

§ 1.767 Cable landing licenses.

(a) * * *

(10) * * *

Note to paragraph (a)(10): Applicants for cable landing licenses may be subject to the consistency certification requirements of the Coastal Zone Management Act, 16 U.S.C. 1456, if they propose to conduct activities, in or outside of a coastal zone of a state with a federally-approved management plan, affecting any land or water use or natural resource of that state's coastal zone. Before filing their applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, applicants must determine whether they are required to certify that their proposed activities will comply with the enforceable policies of a coastal state's approved management program. In order to make this determination, applicants should consult National Oceanic Atmospheric Administration (NOAA) regulations, 15 CFR part 930, subpart D, and review the approved management programs of coastal states in the vicinity of the proposed landing station to verify that this type of application is not a listed federal license activity requiring review and that no state has sought or received NOAA approval to review the application as an unlisted activity. If it is determined that any certification is required, applicants shall consult the affected coastal state(s) (or designated state agency(ies)) in determining the contents of any required consistency certification(s). Applicants may also consult the Office of Ocean and Coastal Management (OCRM) within NOAA for guidance. The cable landing license application filed with the Commission shall include any consistency certification required by section 1456(c)(3)(A) for any affected coastal state(s). Upon documentation from the applicant, or notification from each affected coastal state, that the state has either concurred, or by its inaction, is conclusively presumed to have concurred with the applicant's consistency certification, the Commission may take action on the application.

* * * * *

(k) * * *

(4) Certifying that for applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, the submarine cable system will not be located in any states where the cable landing licenses may be subject to the consistency certification requirements of the Coastal Zone Management Act, 16 U.S.C. 1456.

* * * * *

PART 63—EXTENSION OF LINES, NEW LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 3. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 4. Section 63.18 is amended by revising paragraph (e)(2) introductory text to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) * * *

(2) *Global Resale Authority.* If applying for authority to resell the international services of authorized common carriers subject to § 63.23, the applicant shall:

* * * * *

■ 5. Section 63.19 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) * * *

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 30 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice.

(2) The carrier shall file with this Commission a copy of the notification on the date on which notice has been given to all affected customers. The filing may be made by letter (sending an original and five copies to the Office of the Secretary, and a copy to the Chief, International Bureau) and shall identify the geographic areas of the planned discontinuance, reduction or impairment and the authorization(s) pursuant to which the carrier provides service.

* * * * *

■ 6. Section 63.23 is amended by revising paragraph (c) to read as follows:

§ 63.23 Resale-based international common carriers.

* * * * *

(c) Subject to the limitations specified in paragraph (b) of this section and in § 63.17(b), the carrier may provide service by reselling the international services of any other authorized U.S. common carrier or foreign carrier, or by entering into a roaming or other arrangement with a foreign carrier, for the provision of international basic switched, private line, data, television and business services to all international points.

Note to paragraph (c): For purposes of this paragraph, a roaming arrangement with a foreign carrier is defined as an arrangement under which the subscribers of a U.S. commercial mobile radio service provider use the facilities of a foreign carrier with which the subscriber has no direct pre-existing service or financial relationship to place a call from the foreign country to the United States.

* * * * *

■ 7. Section 63.24 is amended by adding a note to paragraph (b) and by revising paragraph (c) to read as follows:

§ 63.24 Assignments and transfers of control.

* * * * *

(b) * * *

Note to paragraph (b): The sale of a customer base, or a portion of a customer

base, by a carrier to another carrier, is a sale of assets and shall be treated as an assignment, which requires prior Commission approval under this section.

(c) *Transfers of control.* For purposes of this section, a transfer of control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis with reference to the factors listed in Note to paragraph (c).

* * * * *

[FR Doc. E7–18777 Filed 9–24–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 2007–28746]

RIN 2105–AD71

Standard Time Zone Boundary in Southwest Indiana

AGENCY: Office of the Secretary (OST), the Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: DOT is relocating the time zone boundary in Indiana to move Knox, Daviess, Martin, Pike, and Dubois Counties from the Central Time Zone to the Eastern Time Zone. This action is taken at the request of the Boards of Commissioners of each of the Counties and this change serves the convenience of commerce, the statutory standard for a time zone change. DOT is denying a petition from Perry County to change its time zone boundary. Perry County will remain in the Central Time Zone.

DATES: The effective time and date is 2 a.m. CDT, November 4, 2007.

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, *indianatime@dot.gov*, (202) 493–0992.

SUPPLEMENTARY INFORMATION:

Current Indiana Time Observance

Indiana is divided into 92 counties. Under Federal law, 75 counties are in the Eastern Time Zone and 17 are in the Central Time Zone. There are six Central Time Zone Counties in the northwest (Lake, Porter, La Porte, Starke, Newton, and Jasper) and eleven in the southwest (Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry). Neighboring states differ as to whether they observe Eastern or Central Time. Illinois and western Kentucky observe Central Time, while eastern Kentucky, Ohio, and the portion of Michigan adjoining Indiana observe Eastern Time.

Knox, Daviess, Martin, Pike, and Dubois Counties (the Petitioning Counties) and Perry County were moved to the Central Time Zone in January 2006. (71 FR 3228). On August 18, 2006, the Boards of Commissioners of the Petitioning Counties filed a Joint Petition requesting a time zone change back to the Eastern Time Zone. In addition, on June 1, 2007, Perry County filed a petition requesting a time zone change back to the Eastern Time Zone, if the Petitioning Counties were changed.

Statutory Requirements

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard to modify a boundary contained in the statute for such decisions is ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.'' 15 U.S.C. 261.

DOT Procedures To Change a Time Zone Boundary

DOT typically uses a set of procedures to address time zone issues. Under these procedures, DOT will generally begin a rulemaking proceeding to change a time zone boundary if the highest elected officials in the area submit a petition requesting a time zone change and provide adequate data supporting the proposed change. We ask that the petition include, or be accompanied by, detailed information supporting the requesting party's contention that the requested change would serve the convenience of commerce. The principle for deciding whether to change a time zone is defined very broadly to include consideration of all impacts of such a change on a community. We also ask that the supporting documentation address, at a minimum, each of the following questions in as much detail as possible:

1. From where do businesses in the community get their supplies, and to where do they ship their goods or products?
2. From where does the community receive television and radio broadcasts?
3. Where are the newspapers published that serve the community?
4. From where does the community get its bus and passenger rail services; if there is no scheduled bus or passenger rail service in the community, to where must residents go to obtain these services?
5. Where is the nearest airport; if it is a local service airport, to what major airport does it carry passengers?
6. What percentage of residents of the community work outside the community; where do these residents work?
7. What are the major elements of the community's economy; is the community's economy improving or declining; what Federal, State, or local plans, if any, are there for economic development in the community?
8. If residents leave the community for schooling, recreation, health care, or religious worship, what standard of time is observed in the places where they go for these purposes?

In addition, we consider any other information that the elected officials believe to be relevant to the proceeding. We consider the effect on economic, cultural, social, and civic activities, and how a change in time zone would affect businesses, communication, transportation, and education.

2005–2006 Indiana Time Zone Rulemaking Proceedings Involving the Petitioning Counties and Perry County

In the summer of 2005, a new Indiana state law adopted Daylight Saving Time for the entire State and further provided that the State supported the county executives of any county that sought to change time zones. On August 17, 2005, DOT published a notice in the **Federal Register** inviting county and local officials in Indiana that wished to change their current time zone to notify DOT of their request for a change by September 16, 2005, and to provide data in response to the questions identified in the previous section on DOT Procedures to Change a Time Zone Boundary. DOT received 19 petitions from counties asking to be changed from the Eastern Time Zone to the Central

Time Zone, including the Petitioning Counties and Perry County.

In 2005, the Petitioning Counties submitted their petitions individually. In these petitions, they enumerated reasons for a move to the Central Time Zone based in large part on comments made during open, local public meetings in their respective counties. The Daviess County petition emphasized Evansville (in the Central Time Zone) as the place with the closest airport and the place where its residents shop, conduct business, and receive television broadcasts, with ''numerous citizens'' employed in Gibson County (in the Central Time Zone). The Dubois County petition pointed out that while many services are obtained within-county, the decision to move to the Central Time Zone was supported by ''60 to 70% of the general public, by representatives of three local school districts, and by approximately 50% of local business and industry.'' The Knox County petition stated that many of its residents work in the Central Time Zone, creating ''time zone issues during substantial portions of the year'' and those residents who leave for schooling, recreation, healthcare and religious worship go to areas in the Central Time Zone. The Martin County petition stated that ''inclusion in the Central Time Zone is preferred by a majority of those responding,'' that 40% of its residents work outside of the County (mainly in the Central Time Zone), and that the primary providers of goods and recipients of products to and from the County are already located in or are petitioning to be in the Central Time Zone. The Pike County petition cited television and radio broadcasting, the interests of its mining industry and an increasing number of employees commuting to counties in the Central Time Zone. The Perry County petition provided detailed information to illustrate how a change to the Central Time Zone would serve the convenience of commerce. It discussed how the television broadcasts, newspapers, and work patterns favor Perry County being located in the Central Time Zone.

Based on these petitions and comments that were submitted to the docket and made at the public hearings, as well as an analysis of Indiana economic, workforce, transportation, and education regions, and media/commerce data, DOT concluded that the Petitioning Counties and Perry County have stronger ties to each other and to other counties to their south in the Central Time Zone than to the counties on their northern and eastern borders in the Eastern Time Zone. DOT, therefore, granted the petitions and changed the time zone boundaries for the Petitioning Counties and Perry County from the Eastern Time Zone to the Central Time Zone. The change to the Central Time Zone became effective on April 2, 2006.

The Petitioning Counties Joint Petition

Only a few months after the Petitioning Counties began to observe Central Time, on August 18, 2006, the Boards of Commissioners of the Petitioning Counties jointly submitted a new petition (Joint Petition) in which they enumerated the reasons that the Petitioning Counties, as a unit, should be changed back to the Eastern Time Zone. As compared to the 2005 petitions from the Petitioning Counties, the Joint Petition included more detailed information in answer to the questions DOT considers in making time zone determinations as well as exhibits in support of these answers.

The Joint Petition requested a change contrary to the Petitioning Counties' positions in their 2005 individual petitions. The Joint Petition claimed the 2005 petitions ''were incomplete and conclusory, and the information they contained was limited and largely based on opinion and not backed by substantial and verifiable evidence.'' The Joint Petition stated that, since the January 2006 ruling, there has been ''a groundswell of support for returning to the Eastern Time Zone, which has been a product of residents and businesses having been inconvenienced in ways that they could not have fully anticipated until the switch occurred.'' Accordingly, the Joint Petition claimed ''to contain more extensive and thorough research on this issue.''

The Joint Petition was accompanied by letters from Indiana Governor Daniels, the Indiana Economic Development Corporation, and the Indiana Department of Workforce Development. The Governor wrote in support of the Joint Petition, stating that putting more of the State on the same time zone will provide clarity on the time questions and advance economic growth. The two Indiana organizations addressed regional connectivity. They noted that they established their respective State regions based on their ability to deliver services. They did not establish regions based on time zones or ''convenience of commerce.''

After reviewing the Joint Petition and its accompanying exhibits and letters of support, on September 28, 2006, DOT sent a letter to the Petitioning Counties requesting that certain procedural concerns be addressed. Specifically, DOT requested the submission of amended signature pages for each county, certifying that the request was the result of official action by the Board of County Commissioners, the vote of the Board members concerning the submission of the Joint Petition, the date of the vote, and the signature for each Board member. The Petitioning Counties complied with this request on November 13, 2006 (First Supplemental Response).

On November 14, 2006, the DOT sent a second letter seeking clarification and additional information from the Petitioning Counties before making any determination on whether to propose a time zone boundary change for the Petitioning Counties. In turn, on December 6, 2006, the Petitioning Counties submitted a supplemental response and appendix (Second Supplemental Response) to DOT's request for this additional substantive information. In response to an additional request from DOT, on May 29, 2007, the Petitioning Counties sent another letter accompanied by numerous exhibits (Third Supplemental Response).

2007 Notice of Proposed Rulemaking Concerning the Petitioning Counties

Based on the Joint Petition and the three Supplemental Responses, on July 19, 2007, DOT published a Notice of Proposed Rulemaking in the **Federal Register** finding that the Petitioning Counties provided enough information to justify proposing to change their boundary from the Central Time Zone to the Eastern Time Zone. The Petitioning Counties addressed all of the factors that DOT considers in these proceedings.

The Petitioning Counties sufficiently justified proposing a change to the Eastern Time Zone based on information submitted concerning community imports and exports, bus service, the community's economy and economic development, schooling, recreation, and regional connections. With regard to community imports and exports, the Petitioning Counties submitted sufficient information to show that many businesses and industries located in the Petitioning Counties have substantial business connections in the Eastern Time Zone. In addition, the Petitioning Counties submitted sufficient information to show that the convenience of commerce would better be served if businesses did not have to adjust for time zone differences. With regard to bus service, the Petitioning Counties provided information on the broader bus service available in locations in the Eastern Time Zone. The Petitioning Counties provided sufficient information to justify proposing a change back to the Eastern Time Zone under the

community's economy/economic development and regional connections factors based upon a proposed extension of Interstate 69 (I–69) through central and southwestern Indiana and the economic impact of the Naval Surface Warfare Center in Crane (NSWC Crane). The Petitioning Counties pointed out that the expansion of I–69 would provide more economical and efficient access to Indianapolis because traffic will be able to flow north from southwest Indiana to the larger network of highways that go through Indianapolis. The Petitioning Counties submitted sufficient information concerning the recreation aspect of the convenience of commerce standard based on sporting activities and area attractions. The Petitioning Counties also submitted sufficient information concerning the education aspect of the convenience of commerce standard to justify proposing to change the time zone boundary based on after school activities and higher education.

On the other hand, DOT found that the Petitioning Counties did not submit sufficient information with regard to several other factors, including worker commuting patterns, television/radio broadcasting, newspapers, airports/airline services. In addition, the Petitioning Counties did not submit sufficient information concerning the religious observance or health care aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. Nevertheless, overall, the Petitioning Counties made a sufficient case that changing back to the Eastern Time Zone would serve the convenience of commerce.

Comments to the Docket—An Overview

There were over 3500 entries to the docket in this proceeding concerning both the Petitioning Counties and Perry County. The vast majority of the comments were submitted either in e-mails, letters, or information submissions to DOT's Docket Management System. Approximately 225 persons left a telephone message for, or talked with, the contact person noted in the Notice of Proposed Rulemaking. A list of these persons is included in the docket. DOT notes that comments submitted to the prior time zone proceeding docket, OST–2005–22114, after the issuance of DOT's July 2006 final rule but before the July 2007 Notice of Proposed Rulemaking, were transferred to this docket and considered before issuing this final rule.

Comments were made by the residents of the Petitioning Counties and Perry County, as well as other counties in Indiana, including Lawrence, Marion, Monroe, Orange, Owen, and Spencer Counties. Although this proceeding is only to address whether the time zone boundary should be changed for the Petitioning Counties and Perry County, the commenters suggested a wide variety of approaches to establishing time zone boundaries in Indiana, including moving their county to the Eastern Time Zone, keeping their county in the Central Time Zone, placing all of the State in the Eastern Time Zone, and placing all of the State in the Central Time Zone. Some said that they did not care whether it was the Central Time Zone or the Eastern Time Zone, they just wanted the State to be in the same time zone. A few commenters asked DOT to give Indiana a time zone and then ''stay in it.'' Others said that shifting time zones made things more confusing.

Comments were submitted by elected officials. Governor Daniels, State Representative Crooks, the Martin County Commissioners (jointly), Martin County Commissioner Boyd in his individual capacity, Pike County Commissioner Flint, Martin County Council Member Gee, and City of Jasper Mayor Schmitt and Jasper's seven council members submitted comments supporting the Eastern Time Zone. Santa Claus Town Councilman Burke submitted a comment in favor of the Central Time Zone for the Petitioning Counties.

Comments were filed by individuals expressing their personal interests and preferences as well as their views on how a time zone change would be for the convenience of commerce. Some commenters made the choice of time zone reluctantly. The Martin County Board of Commissioners, for example, noted that they favored the entire State to be in the same time zone, but preferred the Eastern Time Zone as an alternative. This same sentiment was echoed by one Daviess County businessman who stated, ''While I personally feel the entire state should be on the Central Time Zone due to our geographic location in the nation, we as a company would be better served to be in sync with the rest of the state. I thereby grudgingly request that Daviess be moved back to the Eastern Time Zone.'' But as one commenter observed, ''we all have to see by now that there are benefits to both time zones.''

Most commenters identified themselves, although some comments were submitted anonymously. Several individuals submitted multiple comments, usually providing commentary on information submitted by others. Some noted their affiliation as concerned parents and grandparents, interested family members, and volunteers.

Comments were also submitted by a variety of business interests including a chamber of commerce. Cabinet and furniture manufacturers, banks, natural gas and electric companies, trucking companies, real estate offices, a university professor, lawyers, and grain and livestock farmers commented. Health care and insurance providers, construction companies, a sawmill and logging operator, information technology and metal companies, and small retail businesses also commented.

Some comments included multiple signatures or multiple commenters. For example, with his letter, Representative Crooks submitted not only the results of his 2007 legislative survey, but the approximately 2500 actual responses that included comments on the time zone issue. Representative Crooks concluded by requesting that DOT return the Petitioning Counties to the Eastern Time Zone. In addition, the creator of advertisements and a Web site for DuboisCounty4CentralTime.com submitted approximately 500 comments on the time zone issue. Each of the comments included the commenter's name, e-mail address, business affiliation (if applicable), time zone preference, and additional comments. While there were some comments in support of the Eastern Time Zone, as noted by the submitter, ''the resounding support from business and the public is for central time.''

DOT has recognized that time zone changes can be disruptive to a community and very divisive. Some commenters accused others of providing ''half truths and misleading information.'' However, the lengths to which some would go to support a time zone change in their favor became apparent in the filing of two comments, one from the town of Ireland and the other from St. Raphael Catholic Church, both located in Dubois County and in support of the Central Time Zone. The former included the names of 114 persons, the latter included 320 names, and neither included signatures. DOT was advised by the pastor of St. Raphael, the president of the St. Raphael's parish council, and individuals on the lists that both lists were fraudulently submitted and did not represent the views of the persons on the list.

The primary reasons given by those in favor of the Central Time Zone include the benefit to commerce and increasing availability for communication with customers on the West coast; geographic location of the State, with closer ties to Evansville, IN, and Owensboro, KY,

compared to Indianapolis and the East coast; safety of school children; and employment-related reasons such as wanting to live in and work in counties in the same time zone. Primary reasons given by those in favor of the Eastern Time Zone include commerce and the quality of life. With regard to commerce, commenters preferred the Eastern Time Zone because Indianapolis, the state capital, and the majority of the State are on the Eastern Time Zone, and the convenience of commerce would be better served if businesses did not have to adjust for time zone differences. With regard to the quality of life, commenters said it would be improved by having more daylight in the evening to spend time with the family or outdoors and because parents would have fewer problems with their children's after school care and sporting events.

DOT notes that several individuals sent multiple submissions to the docket, questioning information and data that were provided by the Petitioning Counties. DOT recognized that the Petitioning Counties had submitted information that needed to be clarified or corrected. DOT raised these concerns in several letters to the Petitioning Counties and, as a result, new information was submitted by the Petitioning Counties to DOT. DOT wanted to ensure that the data we rely upon are correct. We note, however, that the clarification of particular facts may not be dispositive to DOT's determination that a time zone change would serve the convenience of commerce standard. Therefore, in this final rule, DOT broadly discusses the comments submitted as they relate to the convenience of commerce standard, without necessarily addressing specific factual issues raised by these comments.

Comments on Safety of the Children, Voting, and Personal Preferences

A substantial number of the commenters repeatedly raised safety of the children, voting, and their personal preferences. Commenters who said they preferred staying in the Central Time Zone relied upon concerns about the safety of the children. On the other hand, both opponents and proponents of time zone changes repeatedly noted that they were ''voting'' for their time zone preference.

With regard to the safety of the children, some concerned parents commented that, for safety reasons, their children should not have to be standing at the bus stop on rural roads when it is still dark outside and, therefore, urged DOT to deny the requests to move to the Eastern Time Zone. Other concerned parents stated they preferred that their children have an extra hour of daylight at the end of the day to allow them to spend more time outdoors to get exercise and, therefore, preferred the Eastern Time Zone.

Safety is the number one priority of the DOT and we are committed to improving safety of school children. However, as DOT noted in the January 2006 final rule, ''Laws exist to protect children getting on and off school buses. If a bus stop is located in a dangerous place, the Department continues to encourage individuals and local communities to talk with the school office or transportation director about changing the location.''

With regard to voting for personal preferences, a significant number of comments to the docket were just a line or two stating, ''I vote to keep the Petitioning Counties in the Central Time Zone,'' or ''I vote for the Eastern Time Zone,'' or ''My vote is for the same time zone for the entire State of Indiana,'' or ''My husband and I vote for Eastern Time.'' Many called for a public referendum on the issue.

DOT's decision whether to change the time zone boundary is not based on the number of persons supporting a particular time zone. Rather, as noted above, Congress adopted the statutory standard for decisions to move an area from one time zone to another: ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce'' and the information provided by commenters helps us make this decision. This standard is defined very broadly by DOT to include consideration of all the impacts upon a community of a change in its time zone. It is DOT's responsibility to consider requests for changes in time zone boundaries in light of the statutory standard, bearing in mind the need to address the effect on economic, cultural, social, and civic activities within a county and between neighboring counties in making decisions. The views or preferences of citizens, without regard for the convenience of commerce, are not sufficient to support a time zone change. Furthermore, with regard to comments requesting that DOT move the entire State to the same time zone, DOT does not have a statewide proposal before it nor has the Indiana legislature endorsed such an approach. It is, therefore, beyond the scope of this proceeding to consider such a significant change to the State's time zone boundaries.

Comments Addressing the Request of the Petitioning Counties and the Convenience of Commerce Standard

In addition to the general comments received on the proposed time zone change for the Petitioning Counties, DOT also received specific comments relating to the questions DOT considers when determining whether to change a time zone boundary. These comments are summarized below and were considered by DOT in determining the appropriate time zone for the Petitioning Counties.

Community Imports and Exports

Large and small businesses commented in favor of both the Central and the Eastern Time Zone depending on the location of their suppliers and customers. However, those favoring the Eastern Time Zone also referred to lost business implications due to the unavailability of contacts at the beginning and end of the day and during lunchtime. For example, the Martin County Board of Commissioners noted that both the Martin County government and local businesses lost two hours a day. They stated, ''There is a never-ending confusion with vendors and out of the area contacts about the time to contact parties.''

In addition, one small business from Knox County commented that the struggles of time zone differences with customers and suppliers make it even more difficult to compete in a ''big business world'' and applauded the efforts of the Petitioning Counties to work together to move back to the Eastern Time Zone. Another small business from Dubois County noted that the number of missed calls ''skyrocketed'' with the change to the Central Time Zone. Other small retailers preferred the Eastern Time Zone for the additional daylight at the end of the day for shoppers. As for larger organizations, the Commanding Officer of the Naval Service Warfare Center, Crane, (NSWC Crane) and Officer-in-Charge, Naval Support Activity, Crane, (NSA Crane) described a negative impact of the Central Time Zone on productivity.

Some individuals supporting the Central Time Zone questioned what they referred to as the ''supposed four hour difference'' every business day and stated that in a global economy, businesses regularly ''deal with it.'' In addition, a few commenters questioned whether the Central Time Zone resulted in a negative impact on the productivity at NSWC Crane and submitted some newspaper articles that highlight contracts awarded across time zones.

Television and Radio Broadcasts

With regard to television and radio broadcasts, the President of DCBroadcasting, a media company operating a community TV station and several radio stations in Dubois County and adjoining counties, noted that the company operated in both time the Central and Eastern Time Zones. The only reason he gave for supporting the Eastern Time Zone was that the Jasper, Huntingburg, and Ferdinand Chambers of Commerce, all in Dubois County, supported the Eastern Time Zone.

Some individual commenters favoring the Central Time Zone noted that the majority of the television and radio signals received by the Petitioning Counties are from Evansville. One individual from Knox County expressed concern about a change back to the Eastern Time Zone because Knox County is ''tornado alley'' and radio stations broadcasting reports from the National Oceanic and Atmospheric Administration are from the Central Time Zone. Another Central Time Zone supporter noted that Dubois County residents receive weather watches and warnings from cities in the Central Time Zone.

Newspapers

Several individuals supporting the Central Time Zone noted that each of the Petitioning Counties has its own newspapers and that all have subscribers from the surrounding counties. In addition, these commenters also pointed out that more residents of the Petitioning Counties subscribe to the *Evansville Courier & Press* than to the *Indianapolis Star*.

Bus and Passenger Rail Service

Commenters generally noted that residents are not regular bus or rail passengers and that this question was irrelevant to this proceeding. For example, the Martin County Board of Commissioners noted in their comments to the docket that there is no passenger rail traffic in Southwest Indiana and an anonymous commenter said the number of persons who use these services is ''miniscule.'' On the other hand, an individual from Knox County noted that the two closest passenger rail stations are two cities in Illinois in the Central Time Zone.

Airports/Airline Services

With regard to airports/airline services, the Commanding Officer of NSWC Crane and Officer-in-Charge, NSA Crane, noted that the travel office processes 1200 to 1400 travel orders per month and that the main airport used is the Indianapolis International Airport. He also claimed that the time zone difference between the installation and the airport has resulted in lost productivity. In addition, the Martin County Board of Commissioners noted that ''the greatest majority of air passengers utilize the major airports at Indianapolis and Louisville.'' With a time difference, they explained that travelers would need to leave Martin County by 2:30 or 3 a.m. to make a 7 a.m. flight or travel to the airport the night before and incur additional expenses.

A Central Time Zone supporter attached an article from the *Evansville Courier and Press* detailing the upcoming daily flights from Evansville to Indianapolis. This commenter suggested that persons could easily fly out of Evansville and connect in Indianapolis on their way to a final destination.

Worker Commuting Patterns

The majority of workers in the Petitioning Counties live and work in their home counties and the commuters do not have a large impact on the overall workforce in most of the Petitioning Counties. In Martin County, however, commuters make up 46.9% of the Martin County workforce. In some organizations, the number of employees from another county may even be greater. For example, NSWC Crane's Commanding Officer and Officer-in-Charge, NSA, Crane, provided a list of personnel and their home counties. He noted that 93% of NSWC Crane's 2643 employees and 65% of NSA Crane's 145 employees live in the Eastern Time Zone. In addition, his data showed that there are 1494 support service contract personnel and he surmised that they also lived predominantly in the Eastern Time Zone.

Commenters from Martin County favoring the Central Time Zone expressed concern about a focus on worker commuting patterns and said that the time zone boundary for Martin County should focus on preferences of the residents of Martin County. For example, one commenter stated that the counties in the Eastern Time Zone surrounding Martin County should petition for a time zone change to the Central Time Zone in order to be in the same time zone as Martin County.

The Community's Economy/Economic Development

The Dubois County Area Development Corporation commented in support of moving the Petitioning Counties to the Eastern Time Zone as did the Pike County Growth and Development Council.

NSWC Crane, located primarily in Martin County with small portions in Greene and Lawrence Counties, has one of the largest technical workforces in Indiana and an annual operating budget of $1.7 billion, with approximately 2500 employees and 1500 contract personnel. NSWC Crane's Commanding Officer and Officer-in-Charge, NSA Crane, summed up the benefits of a move to the Eastern Time Zone saying, ''It would enhance the business climate for the regions, and enhance the effectiveness of state and local efforts to diversify the economic base of the region as well as the development of the WestGate@Crane technology park.''

Some individuals questioned the information provided in the Joint Petition and Supplemental Responses as related to NSWC Crane noting that rescheduling and logistical problems have been worked out during the months since the change in time zones. They also asserted that companies should have tracked and reported on their losses that resulted from a time zone change.

Schools, Recreation, Health Care, or Religious Worship

With regard to schooling, comments were submitted by school superintendents, parents, and the President of, as well as a professor of business and management from, Vincennes University. The Superintendent of the North Daviess Community Schools reported that the North Daviess Community School Board voted in favor of a return to the Eastern Time Zone. The superintendent noted that he concurred with the school board's vote and believes ''it is in the best interest of our entire school community.'' In support of his position, the Superintendent stated that 25% of the teaching staff lives in the Eastern Time Zone, the entire athletic conference is in a different time zone, and that choral and band festivals with neighboring schools in different time zones have led ''to confusion for parents and spectators.'' In addition, the Superintendent of Greater Jasper Consolidated Schools in Dubois County supported a move to the Eastern Time Zone. He stated that ''in order to have effective and timely communication with regard to education issues, Greater Jasper Consolidated School Corporation needs to be on the same time as the Department of Education in the State of Indiana.'' The Superintendent of the Shoals Community School Corporation, in Martin County, also commented in favor of the Eastern Time Zone for staffing, school start times, and class schedules.

With regard to post-secondary education, the President of Vincennes University pointed out that students cross time zones daily and commented in support of the Eastern Time Zone so that each of its ''campuses and sites could function consistently on the same time zone.''

On the other hand, there were commenters who said that schooling issues favored the Central Time Zone. For example, one commenter from Dubois County noted that for post-secondary education, students in the community go to colleges in the Central Time Zone. The Vincennes University professor submitted a comment in favor of the Central Time Zone for Knox County. His only reason was ''They have not been given enough time to appreciate the change.'' An individual from Knox County noted that the Joint Petition referred to ''one of the smallest public school systems in Knox County'' in support of the Eastern Time Zone. The commenter provided two tables listing football and basketball schedules for the largest school corporation in Knox County to assert that if Knox County remained in the Central Time Zone even if the other Petitioning Counties were changed, there would be a higher percentage of games played in the Central Time Zone.

With regard to recreation, the Martin County Board of Commissioners noted the proximity of Martin County to Indiana University in Monroe County and its cultural, sporting, and educational opportunities for Martin County residents, and that residents could avail themselves to these opportunities more easily if Martin County were in the Eastern Time Zone. The Dubois County Tourism Commission also submitted a comment supporting the Eastern Time Zone stating, ''We feel it is crucial to operate on the same time zone as the majority of our state, as well as our state capital, Indianapolis.'' In addition, the Commission noted that two-thirds of the business and leisure travelers to Dubois County travel from the north and east, areas that are in the Eastern Time Zone.

With regard to health care, commenters expressed a time zone preference based on the time zone of their health care provider. Some gave no reason. For example, the Huntington Medical Association in Dubois County submitted the following comment: ''Please leave us on Central.'' Others supplied more explanation for their preference. For example, an individual from Knox County said that health care is the ''number one industry'' in Knox County and that the majority of the patients come from the Central Time Zone.

Regional Connections

Some commenters said that the Petitioning Counties should be considered to be within the Evansville region. Others said that the Petitioning Counties are more closely connected to counties in the Eastern Time Zone. Yet the majority of commenters who mentioned regional connections noted that the Petitioning Counties should be kept together in the same time zone. However, one commenter from Knox County provided information in an attempt to prove that Knox County ''has the greatest case to stay on Central time,'' although he did say that he believed all the counties should be left in the Central Time Zone.

DOT Determination With Regard to the Petitioning Counties

Based on the Joint Petition, the three Supplemental Responses, and comments to the docket, DOT is relocating, for the convenience of commerce, the Petitioning Counties, Knox, Daviess, Martin, Pike, and Dubois Counties, from the Central Time Zone to the Eastern Time Zone. We did not receive information or data that would persuade us to change from our initial determination that the Petitioning Counties submitted sufficient information to justify a proposal for a time zone change. The totality of the information received by DOT supports a time zone change for the convenience of commerce.

2007 Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking Concerning Perry County

Perry County is located in southwest Indiana, is contiguous to the Petitioning Counties, and had its time zone changed at the same time as the Petitioning Counties. Therefore, DOT asked for comments with regard to Perry County in the Notice of Proposed Rulemaking concerning the standard time zone boundary in Southwest Indiana published in the **Federal Register** on July 19, 2007. (72 FR 39593). Under our normal procedures, we do not take action unless a county makes a clear showing that the proposed change of time zone would meet the statutory standard. However, as we noted in our previous rulemaking on time zone boundary changes in Indiana, this has been an unusual proceeding because of the number of counties involved, their relationship to each other and to other neighboring counties, and the circumstances leading up to the petitions. DOT stated in the July 2007 **Federal Register** notice, ''We also understand that this proposal may have an impact on surrounding Counties, particularly Perry County which changed time zone boundaries at the same time as the Petitioning Counties. * * * Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding.''

At the time of the NPRM, DOT was unaware that, on June 1, 2007, Perry County submitted a Petition (2007 Perry County Petition) (OST 2007–28746–654) for a time zone boundary change back to the Eastern Time Zone, if DOT changed the time zone boundary of the Petitioning Counties. DOT reviewed the 2007 Perry County Petition and the exhibits attached to it. The 2007 Perry County Petition addressed all of the factors that we consider in these proceedings. The 2007 Perry County Petition provided information about time zone impacts on businesses, workers, and the economy; transportation; radio, television, and the print media; and schooling, healthcare, and recreation. In addition, it included considerations of a time zone change on mail, safety, and energy as well as the preferences of Perry County residents.

On July 31, 2007, DOT wrote to Perry County requesting additional information to justify that changing Perry County back to the Eastern Time Zone would serve the convenience of commerce. In addition, on August 8, 2007, DOT provided notice of the 2007 Perry County Petition in a Supplemental Notice of Proposed Rulemaking. (72 FR 44466). DOT summarized the petition Perry County filed in support of its earlier request to change to the Central Time Zone (the 2005 Perry County Petition), the 2007 Perry County Petition, and DOT's questions on the information submitted by Perry County. DOT sought comments on the justification provided by Perry County and responsive information to its questions.

On August 9, 2007, Perry County submitted a response (Perry County Supplemental Submission) to DOT's letter requesting additional information.

2005 and 2007 Perry County Petitions and Perry County Supplemental Submission

Community Imports and Exports

The 2005 Perry County Petition to move from the Eastern Time Zone to the Central Time Zone stated that the primary employers in the county supply products to customers located throughout North America although most of the customer base is located in

the United States, either in the Midwest or the South. In addition, it noted that Perry County's newer employers are considered ''just-in-time'' suppliers to the automotive industry which require a location less than a day's distance from their respective customers.

In lieu of answering the question on community imports and exports with an overview or analysis of the matter, the 2007 Perry County Petition summarized and attached 16 letters from businesses, schools, a hospital, and individuals. According to the 2007 Perry County Petition, the letters express ''a desire to change to the Eastern Time Zone'' because business conducted on Eastern time and the difference in time zones ''causes operating challenges on a daily basis.'' The 2007 Perry County Petition noted that ''businesses in Perry County have in effect lost four hours of each day that they can deal with customers and suppliers from the Eastern Time Zone: One hour in the morning, two hours at lunch, and one hour at the end of the day.'' In further support of the Eastern Time Zone request, the 2007 Perry County Petition specifically references three diverse businesses: The Southern Indiana Rural Electric Cooperatives, which would be the only Hoosier Energy Power Network out of 17 that would be in the Central Time Zone and claims metering and billing problems; Kleeman Masonary, Inc, which usually travels east in its construction business; and Perry County Memorial Hospital, which has difficulties dealing with insurance companies in the Eastern Time Zone.

While the 2007 Perry County Petition claimed the 16 letters attached to it are from businesses and schools, DOT notes that two of the letters were written on business letterhead and merely provided a preference for a time zone without any justification. Another letter stated that it is ''more cumbersome'' to be on a different time zone, but provides no explanation. In contrast to the 16 letters, the 2007 Perry County Petition states that the Perry County Chamber of Commerce has informed the Perry County Commissioners that ''there are 386 total employers located in Perry County'' and that 41% of businesses have expressed a preference for the Central Time Zone. The 2007 Perry County Petition does not provide the reasons for the ''preference.''

In order to more clearly assess the impact of a time zone change on businesses, DOT asked Perry County to provide an analysis of time zone impacts on businesses in the county and the reasons for the time zone preference expressed by Perry County businesses.

In response to DOT's request, the Perry County Supplemental Submission stated, ''The Perry County Commissioners have no additional analysis to submit; however attached hereto as Exhibit ''A'' is an additional letter from a local business which expresses a preference for Eastern Time Zone, and the reasons for the preference.''

Television and Radio Broadcasts

With regard to television broadcasts, the 2005 Perry County Petition stated that the County was ''located within the Area of Dominant Influence for the Evansville, Indiana television market.'' The 2005 Perry County Petition also stated that Perry County ''receives cable and over-the-air broadcasts from the Louisville, Kentucky market as well.'' The 2007 Perry County Petition made the same statements concerning television broadcasts.

With regard to radio broadcasts, the 2005 Perry County Petition stated that the ''majority of the stations serving Perry County are located either in the Central Daylight Saving or Eastern Standard time zones.'' The 2007 Perry County Petition elaborated on the previous petition by providing a list of AM and FM radio signals for five cities within the County based on information from radio-locator.com. As the 2007 Perry County Petition noted, residents in the northern part of the County primarily receive radio signals from the Eastern Time Zone while residents in the southern part of the County receive radio signals from the Central Time Zone. While the 2007 Perry County Petition provides radio signal information for five cities, it did not provide any information about the population of those cities.

In order to assess the impact of a time zone change on television and radio broadcasts, DOT asked Perry County for population data for Bristow, Cannelton, Leopold, St. Croix, and Tell City, the localities referred to in the 2007 Perry County Petition. The Perry County Supplemental Submission provided the 2000 U.S. Census Bureau statistics for Tell City and Cannelton and the U.S. Census Bureau American Fact Finder reports for the other cities. According to this submission, the city or town and its population are: Tell City—12,094; Cannelton—2968; Bristow—1111; Leopold—568; and St. Croix—462. As noted in the 2007 Perry County Petition, the population of Perry County is in excess of 18,000. The majority of Perry County's residents live in Tell City and Cannelton, in the southern part of the County which receives its radio signals from the Central Time Zone.

Newspapers

The 2005 Perry County Petition stated, ''The primary daily newspaper that serves Perry County is the *Evansville Courier & Press*'' in the Central Time Zone and that the local county newspaper, which publishes editions twice per week, also operates a printing plant that prints weekly newspapers for two Central Time Zone communities. On the other hand, the 2005 Perry County Petition also noted that the *Louisville Courier & Journal,* from the Eastern Time Zone, maintains drop boxes for the Sunday edition at several area convenience stores. Daily service, however, is unavailable.

The 2007 Perry County Petition provided more detailed information on newspaper use within the County. The 2007 Perry County Petition asserted that Perry County residents ''primarily'' receive their news from the local newspaper, *The Perry County News,* which is published twice a week. Furthermore, according to the 2007 Perry County Petition, there are 1,901 weekday subscriptions and 2,271 Sunday subscriptions for the *Evansville Courier & Press.* While this is consistent with Perry County's original request for the Central Time Zone, the 2007 Perry County Petition claimed that the subscriptions support the Eastern Time Zone because the population base is in excess of 18,000. The 2007 Perry County Petition also noted that the *Indianapolis Star* has a very small circulation in the County; and, that the *Louisville Courier-Journal* has no daily subscriptions in the County.

With regard to newspaper publishing, DOT asked Perry County for the number of subscriptions of *The Perry County News* and the *Indianapolis Star;* the total number of households in Perry County; whether the residents of Perry County receive any newspapers from Daviess, Dubois, Knox, Martin, or Pike Counties and; if residents do receive newspaper from these counties, the circulation numbers of those newspapers within Perry County.

The Perry County Supplemental Submission stated that there are 7270 households in Perry County and that the total circulation and street sales for the *Perry County News* are 5625. The Perry County Supplemental Submission also corrected the circulations for two newspapers included in the 2007 Perry County Petition. While the 2007 Perry County Petition claimed that ''the *Indianapolis Star* has a very small circulation in the County,'' according to the Perry County Supplemental Response, the circulation is zero. With regard to the *Louisville Courier-Journal,*

the 2007 Perry County Petition claimed there were ''no daily subscriptions in the County.'' According to the Perry County Supplemental Response, however, the *Louisville Courier-Journal* distributes seven daily and thirteen Sunday newspapers in Perry County. As for other newspapers, the Perry County Supplemental Response stated that the *Jasper Dubois County Herald* reports 40 mail subscribers in Perry County, but did not provide any information with regard to newspaper subscriptions for Daviess, Knox, Martin, or Pike County newspapers.

Bus and Passenger Rail Service

The 2005 Perry County Petition stated that there are no bus or passenger rail services in the community. The 2007 Perry County Petition explained bus service in more detail, contrasting bus service provided in Evansville and Louisville, and freight rail services. The 2007 Perry County Petition noted that Evansville is approximately 50 miles away and offers services to western and southern routes. In contrast, Louisville is approximately 75 miles away and offers service to the north, northeast, and south. As for rail service, although DOT requested information on passenger rail service, the 2007 Perry County Petition referred only to freight rail service that carries goods through several southern Indiana counties.

Airports/Airline Services

The 2005 Perry County Petition stated that the nearest airport is in Evansville, IN, located in the Central Time Zone, approximately 55 miles from Perry County. The 2005 Perry County Petition also noted that that there is an airport in Louisville, KY, in the Eastern Time Zone, 75 miles from Perry County. The 2007 Perry County Petition reiterated the same information with regard to airport location and supplemented it by referring to the number of departures and destinations and the impact of early morning flights on travelers. According to the 2007 Perry County Petition, the Evansville Regional Airport has, approximately, only 35 daily departures in contrast to Louisville International Airport which offers daily departures to ''around 140 domestic destinations plus 53 international destinations.'' The 2007 Perry County Petition also noted that because Louisville International Airport is in the Eastern Time Zone, it is ''extremely difficult'' to take early morning flights unless travelers spend the night at or near the airport.

Worker Commuting Patterns

The 2005 Perry County Petition stated that 3,267 persons, or 26% of its total workforce, reside in Perry County but work outside of the County. Of the top five areas to which Perry County residents commute for work, four were in the Central Time Zone and, the fifth, Dubois County, was at that time requesting to be located in the Central Time Zone. (Dubois County is now requesting to be moved back to the Eastern Time Zone.) A STATS Indiana Annual Commuting Trends Profile based on Indiana IT–40 Returns for Tax Year 2003 was attached to the 2005 Perry County Petition.

The 2007 Perry County Petition also referred to the Perry County workforce. The actual numbers provided differ from the earlier submission because they are from STATS Indiana Annual Commuting Trends Profile based on Indiana IT–40 Returns for Tax Year 2005. Nevertheless, the percentage of the workforce that leaves the County did not change; it remains 26%.

The Community's Economy/Economic Development

The 2005 Perry County Petition discussed the major elements of the community's economy, the improvement in the County's economy, and efforts to ensure that the local economy continues to improve. The 2005 Perry County Petition noted ''a dramatic shift from traditional woodworking industries to a significant transportation cluster.'' It stated that the ''primary employers manufacture products for the automotive, heavy truck, and aerospace industries.'' The 2005 Perry County Petition also referred to a regional rural hospital and noted the planning and infrastructure the County put in place to support future economic growth and its partnerships to enhance growth.

The 2007 Perry County Petition's answer to the question on the community's economy is nearly identical to the 2005 Perry County Petition. There is only one change. The 2007 Perry County Petition eliminated, in this response, reference to ''a regional rural hospital which serves counties in Southern Indiana and Western Kentucky, located in the Central time zone.'' However, it included the reference to the hospital in response to the question concerning health care.

In order to assess the impact of a time zone change on the community's economy, DOT asked Perry County to identify whether Perry County has entered into economic partnerships with Daviess, Dubois, Knox, Martin, or Pike Counties or other Counties in southern Indiana and, if it has entered into partnerships, the nature of these partnerships and how a time zone change would affect them.

The Perry County Supplemental Submission stated that Perry County is a member of both the Indiana 15 Regional Planning Commission and the Southwest Indiana Development Council. The Perry County Supplemental Submission noted that if both the Joint Petition and the 2007 Perry County petition result in a time zone change for the 6 Southwestern Indiana Counties they cover, the change would impact the Indiana 15 Regional Planning Commission and the Southwest Indiana Development Council by reducing the number of Counties in the Central Time Zone.

Schools, Recreation, Health Care, or Religious Worship

With regard to schools, the 2005 Perry County Petition emphasized post-secondary education. While the 2005 Perry County Petition recognized that Perry County residents attend post-secondary schools in the Eastern and Central Time Zones, it noted that more Perry County residents go to the University of Southern Indiana in the Central Time Zone than any other school.

The 2007 Perry County Petition shifted the focus from post-secondary education to the high school level. It noted that no Perry County school districts are in more than one time zone, but said that the schools cross time zones to participate in sporting events. Exhibits 10 through 14 to the 2007 Perry County Petition provided information on the athletic conferences in southern Indiana, and the schedules for basketball, volleyball, football, cross country, baseball, and softball. The 2007 Perry County Petition asserted that playing games in different time zones ''causes extreme complications with scheduling and arrival and departure times for the schools.''

The 2005 Perry County Petition did not address recreation or whether County residents left the County to pursue recreational interests. The 2007 Perry County Petition, however, stated, ''Perry County prides itself on its outdoor recreational activities including the vast amounts of Hoosier National Forest and ready access to the Ohio River for recreation such as boating, fishing and hunting.'' The 2007 Perry County Petition also referred to recreational softball, baseball, and soccer leagues that could play later into the evening if the County were located in the Eastern Time Zone.

In order to assess the impact of a time zone change on recreation, DOT requested information on whether

residents leave Perry County for recreation and the standard of time observed in the places where they go for this purpose. The Perry County Supplemental Submission stated, ''Perry County was unable to locate any statistics concerning what percentage of residents leave the county for recreation.''

With regard to health care, the 2005 Perry County Petition noted that Perry County is ''home to a regional rural hospital.'' It also noted that residents ''primarily travel to Evansville and Jasper, Indiana'' to purchase health services. Like the 2005 Perry County Petition, the 2007 Perry County Petition also noted the regional hospital and refers to a letter from Perry County Memorial Hospital. The letter stated that the hospital conducts ''a lot of business with our State Capitol in Indianapolis'' and that ''the large insurance companies'' that it does business with are also located there.

While the letter from Perry County Memorial Hospital provides business reasons for an Eastern Time Zone preference, it does not address the impact of the current time zone on Perry County residents and whether they are referred to health care providers in other time zones. Therefore, in order to assess the impact of a time zone change on health care, DOT requested information on the number of patients referred from Perry County to health care providers in Evansville, Jasper, Indianapolis, and Louisville. The Perry County Supplemental Submission provided information concerning the patients transferred from Perry County Memorial Hospital in 2006. According to the Perry County Memorial Hospital transfer information, 728 out of 838 patients in 2006 were transferred to hospitals in the Central Time Zone. Two of these Central Time Zone hospitals are in Evansville, IN, and the other is located in Owensboro, KY.

Neither the 2005 Perry County Petition nor the 2007 Perry County Petition addressed religious worship and DOT had no additional questions concerning this issue.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, the Petitioning Counties, Perry County, and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. DOT carefully reviewed this data and utilized it in reaching its decision. DOT recognized the importance of regional connections and the benefits of similar time zones and regional ties among counties. As described in the summary of the hearings and comments to the docket in DOT's January 2006 Final Rule, the Southwestern Counties have strong regional ties to each other and Central Time Zone Counties. DOT stated, ''While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties is not as strong as they are to each other and to other counties to their south, which are currently in the Central Time Zone. Along with Pike, these counties are located in the same workforce, commerce, transportation, and education regions designated by Indiana. Remaining in the same time zone and maintaining their regional ties better position counties to realize advantages in economic, cultural, social, and civic activities, thereby serving the convenience of commerce.''

The 2007 Perry County Petition addressed regional connections by noting that at DOT's hearing on time zones in November 2005, ''Perry County representatives stated that one of the reasons for the requested change was the fact that Dubois County was also petitioning to be placed in the Central Time Zone.'' The 2007 Perry County Petition also noted that five other counties in the area petitioned for a time zone change back to the Eastern Time Zone.

DOT asked Perry County to address the regional connectivity of Perry County with other counties in southern Indiana, including those that have and have not petitioned for a time zone change and how a time zone change would affect regional connections. The Perry County Supplemental Submission stated, ''Perry County has no additional information to submit in this response.''

Comments Addressing Perry County's Request

In addition to general comments received on the proposed time zone change for the Petitioning Counties and Perry County's request for a time zone change, DOT also received specific comments on the 2007 Perry County Petition. In general, Perry County individuals and businesses commented in support of a change to the Eastern Time Zone and also in favor of staying in the Central Time Zone. Businesses supporting the Eastern Time Zone referred to the general impact of lost ability to work with customers and suppliers. Some were more specific, referring to the actual impact on their business. For example, one trucking and excavating company referred to dealing with an Indiana county to the east that is located in the Eastern Time Zone. Because of this specific relationship, the owner supported the Eastern Time Zone for the County. Other commenters referred to the Petitioning Counties and said if the five other Counties were going to change time zones, Perry County should too.

Those preferring the Central Time Zone also expressed both general and specific reasons to remain in the Central Time Zone. Commenters noted that nothing has changed in Perry County since the 2005 Perry County Petition and that Central Time is working for them personally and for their businesses. One commenter responded to the assertion that Perry County should change time zones because the five other Counties were changing by quoting his mother saying, ''if the other person jumps off of a bridge it does not mean that you have to jump too.'' The overwhelming majority of commenters concerning the time zone boundary for Perry County based their choice on personal preferences.

There were comments with regard to the specific aspects of the convenience of commerce standard. While many assertions were made generally, there are a few that are worth noting. With regard to health care, commenters asserted that Perry County residents go to Owensboro, KY, to visit health care professionals. For example, one commenter expressed concern that DOT did not specifically request information about Owensboro and noted that a ''GREAT NUMBER'' of Perry County residents travel to Owensboro for doctor's appointments, hospital visits, outpatient surgery, and children's orthodontist appointments. With regard to the education aspect of the convenience of commerce standard, the Superintendent of Cannelton City Schools commented on behalf of the Board of School Trustees. The Superintendent requested that Perry County remain on Central Time based on safety concerns of the students.

DOT Determination With Regard to Perry County

As we have noted, DOT's determination as to whether to grant a request to change a time zone boundary is based upon our review of the information submitted. If sufficient information is not submitted to justify a time zone change under the statutory standard, the petition will be denied. Perry County has failed to make that showing.

Perry County did not provide responsive information concerning the effect of a time zone change on community imports and exports.

Instead, it made general assertions about businesses losing four hours each day to deal with customers and suppliers because of a time zone difference and offered 16 letters from businesses, schools, a hospital, and individuals supporting a change to the Eastern Time Zone. However, Perry County also stated that 41% of employers expressed a preference for the Central Time Zone. The majority of the Perry County population receives television and radio broadcasts from the Central Time Zone. While a much smaller number of residents, in the northern part of the County may receive more broadcasts from the Eastern Time Zone, Central Time Zone broadcasts are still readily available. In addition, the majority of households (5625 out of 7270) get the local newspaper published in Perry County. Of the residents interested in subscribing to another newspaper, nearly 2000 subscribe to the *Evansville Courier & Press* published in the Central Time Zone. As for newspapers published in the Eastern Time Zone, less then 50 residents are regular subscribers. Therefore, neither television and radio broadcasting nor newspaper circulation support a move back to the Eastern Time Zone.

With regard to the worker commuting patterns factor, statistics show that 76% of the Perry County workforce resides and works in the County. Of the 26% that works outside of the County, at least 65% work in Central Time Zone Counties within Indiana or in Kentucky. Although Perry County has noted its participation in a planning commission and development council, Perry County has not provided any information about any past, current, or planned economic partnerships between Perry County and any of the Petitioning Counties or other Southwestern Indiana Counties that would result in jobs in the region, enhancing the County's economy, or increasing the County's tax base. Accordingly, Perry County has not provided persuasive evidence that, with regard to worker commuting patterns or the community's economy or economic development, a time zone change would be beneficial to the County. With regard to health care, the majority of patients are referred to providers in the Central Time Zone, and Perry County has not shown that a change in the time zone is warranted for reasons related to health care. With regard to regional connectivity, Perry County provides no support for its request for a time zone change other than to refer to comments made at the 2005 hearings and the Petitioning Counties made no reference to any ties to Perry County in their discussions of connections with other Indiana counties. Passenger rail, bus, and airline services, education, recreation, and religious worship in Perry County do not appear to be impacted by time zones. However, at the high school level, athletic competition crosses time zones, and sporting events are played in both the Eastern and Central Time Zones.

Based on the information submitted by Perry County and by other comments to the docket, Perry County appears to be oriented to the Central Time Zone and Perry County has not provided sufficient information based upon the convenience of commerce standard and DOT's time zone factors to justify a time zone change. Therefore, DOT denies the 2007 Perry County Petition.

The Future of Time in Indiana

Impact on Observance of Daylight Saving Time

This final rule does not affect the observance of Daylight Saving Time. Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2 a.m. on the second Sunday in March until 2 a.m. on the first Sunday in November, except in any State that has, by law, exempted itself from this observance. In 2006, under State law, Indiana began observing Daylight Saving Time throughout the State. Both Central and Eastern Time Zone counties now observe Daylight Saving Time thereby preserving a one hour time difference throughout the year. This final rule does not change Indiana's decision to observe Daylight Saving Time statewide.

Practical Application of This Final Rule

The effective date of this final rule is November 4, 2007, the changeover date from Daylight Saving Time to standard time. At 2 a.m. Central Daylight Saving Time, the Petitioning Counties do not change their clocks, because they are returning to the Eastern Time Zone. At 2 a.m., the Petitioning Counties will be on Eastern Standard Time. As for Perry County, at 2 a.m., because Indiana now observes Daylight Saving Time, the clocks in Perry County should be moved back one hour, to 1 a.m. Central Standard Time. On March 9, 2008, the changeover date to Daylight Saving Time, all Indiana clocks will be moved ahead one hour.

New Petitions for a Time Zone Change in Indiana

As evidenced by the comments to the docket, time zone boundary changes can be extremely disruptive to a community. Therefore, a time zone change should not be made without careful consideration. DOT's decision to change a time zone boundary is based on the statutory standard ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce,'' which DOT defines very broadly to include consideration of all the impacts upon a community of a change in its standard of time. To minimize disruption to Indiana communities and their residents and to allow DOT and these communities to fully assess the impact of changes to the time zone boundaries, DOT will not consider any petitions for a time zone change from any elected officials in Indiana for at least one year after the effective date of this final rule.

Regulatory Analysis and Notices

This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). We expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule primarily affects individuals and their scheduling of activities. Although it would affect some small businesses, not-for-profits and, perhaps, a number of small governmental jurisdictions, we have not received comments asserting that our proposal, if adopted, would have had a significant economic impact on small entities.

Therefore, I certify under 5 U.S.C. 605(b) that this final rule does not have a significant economic impact on a

substantial number of small entities. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better implement it.

Collection of Information

This final rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This final rule would not impose an unfunded mandate.

Taking of Private Property

This final rule does not result in a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

Privacy Act

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

List of Subjects in 49 CFR Part 71

Time zones.

■ For the reasons discussed above, the Office of the Secretary amends Title 49 part 71 to read as follows:

PART 71—[AMENDED]

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

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a).

■ 2. Paragraph (b) of § 71.5, *Boundary line between eastern and central zones*, is revised to read as follows:

§ 71.5 Boundary line between eastern and central zones.

* * * * *

(b) *Indiana-Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the west line of Marshall County; thence south along the west line of Marshall County; thence west along the north line of Pulaski County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Gibson County; thence easterly and northerly along the north line of Gibson County to the west line of Pike County; thence south along the west line of Pike County to the north line of Warrick County; thence east along the north line of Warrick and Spencer Counties to the west line of Perry County; thence easterly and southerly along the north and east line of Perry County to the Indiana-Kentucky boundary.

* * * * *

Issued in Washington, DC on: September 19, 2007.

Mary E. Peters,

Secretary.

[FR Doc. 07–4721 Filed 9–20–07; 1:38 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AU77

Endangered and Threatened Wildlife and Plants; Prudency Determination for the Designation of Critical Habitat for Trichostema austromontanum ssp. compactum

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of final determination.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have reconsidered whether designating critical habitat for *Trichostema austromontanum* ssp. *compactum,* a plant, is prudent. We listed this taxon as threatened under the Endangered Species Act of 1973, as amended (Act), in 1998; at that time, we determined that designation of critical habitat was not prudent, because designation would increase the degree of threat to the taxon and would not benefit the taxon. As a consequence of a settlement agreement, we withdrew our previous not-prudent determination, and agreed to reevaluate the prudency of designating critical habitat. However, based on our review and evaluation of the best scientific and commercial information available, we believe that designation of critical habitat continues to be not prudent for *T. a.* ssp. *compactum.*

DATES: This rule becomes effective on October 25, 2007.

ADDRESSES: Comments and materials we receive, as well as supporting documentation used in the preparation of this determination, will be available for public inspection, by appointment,

during normal business hours, at the Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011 (telephone 760–431–9440). The final determination will also be available via the Internet at *http://www.fws.gov/carlsbad.*

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, telephone, 760–431–9440; facsimile, 760–431–9624.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only those topics directly relevant to the final prudency determination. For more information on biology, ecology, and taxonomy of *Trichostema austromontanum* ssp. *compactum,* refer to the final rule listing this taxon as threatened published in the **Federal Register** on September 14, 1998 (63 FR 49006), and the notice of proposed prudency determination for the designation of critical habitat for this taxon published in the **Federal Register** on September 26, 2006 (71 FR 56094).

Taxonomy and Description

Trichostema austromontanum ssp. *compactum,* a member of the Lamiaceae (mint family), was described by F. Harlan Lewis (1945, pp. 275–303) based on specimens collected in 1941 by M. L. Hilend in Riverside County, California. The taxon occurs on the margins of a single vernal pool (Bauder 1999, p. 13; Fraga and Wall 2007, p. 11). *Trichostema austromontanum* ssp. *compactum* is a compact, soft-villous (with long, shaggy hairs) annual plant, approximately 4 inches (10 centimeters) tall, with short internodes (stem segments between leaves) (Lewis 1945, pp. 284–386, Lewis 1993, p. 732), elliptic leaves, and blue flowers in a five-lobed corolla. The two stamens are blue. The fruit consists of four smooth, basally joined nutlets. This taxon flowers from July to November (Fraga and Wall 2007, pp. 2–5).

Threats

For a discussion of the threats to this species please refer to the final rule listing this taxon as threatened (September 14, 1998; 63 FR 49006), our July 28, 2006, 5-year review (available at *http://www.fws.gov/carlsbad*), and the notice of proposed prudency determination for the designation of critical habitat for this taxon published in the **Federal Register** on September 26, 2006 (71 FR 56094).

Previous Federal Actions

On September 13, 2004, the Center for Biological Diversity (CBD) and California Native Plant Society (CNPS) challenged our failure to designate critical habitat for this taxon and five other plant species (*Center for Biological Diversity, et al.* v. *Gale Norton, Secretary of the Department of the Interior, et al.,* ED CV–04–1150 RT (SGLx) C. D. California). The CBD and CNPS alleged that we failed to provide evidence in the final listing rule supporting our determination that designation of critical habitat would not be beneficial to the species, and that we failed to establish how the publication of critical habitat maps would increase the threat to the species. Without reaching any conclusions on the merits of the previous decision, we agreed to submit for publication in the **Federal Register** a withdrawal of our previous not-prudent determination, and a proposed designation of critical habitat, if prudent and determinable, on or before September 20, 2006, and a final rule by September 20, 2007. On September 26, 2006, we published a notice proposing a new not-prudent determination for the designation of critical habitat for *Trichostema austromontanum* ssp. *compactum,* and announced the opening of a 60-day public comment period on the proposed determination (71 FR 56094). This notice of final determination complies with the April 14, 2005, settlement agreement.

For a discussion of the Federal actions that occurred prior to the 2006 proposed determination, please refer to the ''Previous Federal Actions'' section in the final rule listing this taxon as threatened (September 14, 1998; 63 FR 49006), and the notice of proposed prudency determination for the designation of critical habitat for this taxon published in the **Federal Register** on September 26, 2006 (71 FR 56094).

Summary of Comments and Recommendations

We requested written comments from the public during a 60-day comment period on the notice of proposed prudency determination for the designation of critical habitat for *Trichostema austromontanum* ssp. *compactum* on September 26, 2006 (71 FR 56094). We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed determination.

During the comment period that opened on September 26, 2006, and closed on November 27, 2006, we received four comments directly addressing the proposed determination: three from peer reviewers and one joint comment letter from the Center for Biological Diversity and the Native Plant Conservation Campaign. In the following summary, we have addressed the comments we received; we have also incorporated these comments into the prudency determination as appropriate. We did not receive any requests for a public hearing.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from four knowledgable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from three of the peer reviewers. The peer reviewers generally concurred with our methods and found our information to be accurate. Peer review comments are addressed in the following summary and incorporated into this final prudency determination as appropriate.

Peer Reviewer Comments

1. *Comment:* The proposed prudency determination stated that *Trichostema austromontanum* ssp. *compactum* is distributed on the northwestern edge of its vernal pool habitat and that the plants flower in July and August. One peer reviewer commented that the plant is found most frequently along the northern margin but that the plant is also distributed on the northeastern and eastern edge of the vernal pool as well as the northwestern edge. The commenter also stated that the peak bloom for this species may be in July and August, but that the plant was also found in flower from July through November of 2006.

Our Response: We have incorporated this information on the distribution and flowering period of this taxon into the ''Taxonomy and Description'' section of this final prudency determination.

2. *Comment:* The peer reviewers had differing opinions about our assertion that the publication of critical habitat could bring more visitors to the location where the plant grows. Two peer reviewers agreed that the best way to protect the species is to reduce traffic to the area and lower its visibility. However, one peer reviewer stated that the publication of critical habitat maps would not significantly increase visitation to the area because this taxon is not a showy plant, is not sought after by hobbyists or professional botanists, and is unlikely to draw casual visitors.

Our Response: We continue to conclude that designation of critical habitat is not prudent at this time.

Direct threats associated with unregulated visitation to the area have apparently decreased as a result of management actions initiated by the California Department of Parks and Recreation (CDPR). While this taxon may not be sought after by a large number of hobbyists or professional botanists, the vernal pool occupied by the taxon was impacted by recreation and plants were lost to trampling prior to the installation of barriers by the CDPR. Since the ecosystem where *Trichostema austromontanum* ssp. *compactum* grows is vulnerable to disturbance, and is the only known location where this unique ecosystem is found within the San Jacinto Mountains, all possible actions should be taken to protect this ecosystem from further degradation and disturbance. We believe that the act of designating critical habitat could bring additional visitors to the area because its location would be published with explicit geographic coordinates. An increase in visitation would increase the degree of threat to the taxon from trampling and would directly contradict the efforts of the CDPR to restrict visitation to this area and conserve this species.

3. *Comment:* One peer reviewer stated that the Service should provide quantifiable and verifiable examples of where past designations of critical habitat, or other actions that publicize the location of a listed species, have resulted in damage to a species or its habitat from tremendous increases in visitation and trampling.

Our Response: The District Superintendent of the Inland Empire District of California State Parks (CDPR) has expressed concern to us that the critical habitat designation process may place this plant at increased risk via increased visitation (Watts 2006). Prior to its listing under the Act, *Trichostema austromontanum* ssp. *compactum* was impacted by trampling associated with recreational use of its habitat. In recent years, this threat has been reduced by conservation measures implemented by the CDPR, which include installing barriers, removing signs, and removing the location of this area from maps of the park. Because these measures have been successful in reducing threats to the taxon, we believe that any action that contravenes these measures can be expected to increase threats to the taxon. We believe that publication of specific locations and maps associated with a critical habitat designation for this taxon, with the attendant publicity that a designation would likely generate, can be expected to increase interest in the area where the taxon is found because of the interest that the public and scientific community have in rare, threatened, and endangered species, and in unique ecosystems. We believe that this interest could lead to increased visitation to the only area where *T. a.* ssp. *compactum* is found, thereby increasing the threat of trampling to this species.

We know of one specific example of a case where the designation of critical habitat resulted in higher visitation to an area and higher collection pressure. In the prudency determination for the rock gnome lichen (66 FR 51445; October 9, 2001), we cited the case of another federally listed North Carolina mountain plant for which critical habitat was designated; the taxon was severely impacted by collectors immediately after the critical habitat maps were published. This collection happened even though this plant was not previously known to be desired by rare plant collectors and had never been offered for sale in commercial trade. For the rock gnome lichen itself (66 FR 51445; October 9, 2001), we documented that after the species was listed, an illegal collection occurred at a location within a National Park, and another population outside the Park was vandalized for unknown reasons (the lichens were scraped off the rock to form graffiti). Thus, although *Trichostema austromontanum* ssp. *compactum* may not be sought after by a large number of hobbyists or professional botanists at present, critical habitat designation could increase interest and lead to increased visitation.

Due to the rarity of *Trichostema austromontanum* ssp. *compactum* and its fragile nature, we do not want to increase the threats to it by drawing attention to its location. In years when climatic conditions are unfavorable to the taxon, only a few individuals may be present at any one time or location and it would be relatively easier for a small amount of activity to destroy the majority of the plants. In another study of an endangered plant, demographic modeling results indicated that when the effects of trampling and bad climatic conditions were coupled, extinction was accelerated (Maschinski et al. 1997). The fact that CDPR has invested money and effort to minimize the visibility of this area to recover this species and its unique habitat indicates that CDPR shares our concern about impacts associated with increased visitation to the area.

4. *Comment:* One peer reviewer agreed that the only way to protect *Trichostema austromontanum* ssp. *compactum* was to reduce traffic to the area and to lower its public visibility; however, the peer reviewer stated that critical habitat should be designated because a future Federal project may impact this area. While acknowledging that a Federal project in this area appears unlikely, this peer reviewer gave examples of three California State Parks where unexpected projects with a Federal nexus have been proposed: the power line through Anza-Borrego State Park (Sunrise Powerlink Project); the toll road through San Onofre State Park; and the expansion of the border fence (US/Mexico Border Infrastructure Project) in Border Field State Park. The peer reviewer stated that none of these projects were foreseen, but the presence of critical habitat could provide additional protection on State lands against unforeseen Federal projects.

Our Response: The locations of the State Parks cited by the peer reviewer may have contributed to the ''unforeseen'' projects being proposed in those areas. For example, Border Fields State Park is directly on the United States/Mexico border and San Onofre State Park is adjacent to residential development and Interstate 5; the proximity of these parks to existing infrastructure may make these parks more vulnerable to the expansion of existing infrastructure. Also, the alignment for the Sunrise Powerlink Project through Anza-Borrego State Park is proposed within an existing utility easement.

On the basis of a review of current infrastructure and regional planning efforts and projections, the area occupied by *Trichostema austromontanum* ssp. *compactum* is not adjacent to existing or proposed urban development or large-scale infrastructure, nor is it traversed by any existing or planned utility easements. Also, the steep terrain surrounding the State Park (on Mount San Jacinto) makes future utility and infrastructure projects unlikely. In addition, as discussed in the ''Benefits to the Species from Critical Habitat Designation'' section of the proposed determination, the specific area where this plant is found is a designated State of California Natural Preserve, which means that protection and management of sensitive resources is the highest priority for this area. As a result of these factors, we do not foresee any future Federal projects that would result in destruction or adverse modification of the habitat for this taxon.

However, if a Federal project was proposed that could negatively impact *Trichostema austromontanum* ssp. *compactum,* a section 7 consultation would be required. The designation of critical habitat would benefit the species by ensuring that a Federal project would

not result in the destruction or adverse modification of the critical habitat. However, because of the low likelihood of a project with a Federal nexus occurring in the taxon's habitat, we believe that the increased threat to the plant due to potential increased human visitation outweighs the benefits of designating critical habitat for this taxon (see ''Prudency Determination'' section below for a detailed discussion).

5. *Comment:* One peer reviewer commented that an alternate location with suitable habitat should be sought so that an introduced population could be created and sustained.

Our Response: In the preparation of this determination, we asked individuals knowledgeable about the area where *Trichostema austromontanum* ssp. *compactum* is found if they knew of any additional vernal pool habitat where another population may currently exist or where a population could be introduced. No additional vernal pool habitat is known to occur within or adjacent to San Jacinto State Park.

Public Comments

6. *Comment:* One commenter disagreed with our statement in the proposed determination that information on the location of *Trichostema austromontanum* ssp. *compactum* and its habitat is no longer available on the internet and provided links to two Web sites containing postings on rare plant habitat. The commenter also stated that interested parties could easily access additional information on the location on internet-accessible herbarium databases.

Our Response: We acknowledge that information regarding the location of the taxon and its habitat is available; however, the location information has never been presented to the public at the level it would be through the publicity that accompanies the publication of a critical habitat rule. One of the Web sites the commenter cited provides aerial maps and information about user-specified locations. However, the location information provided on the Web site is somewhat general and would likely be difficult to use to find the area where the taxon occurs. Also, the information on the Web site states that there is no official State Park map because the area is a wildlife preserve and the Park tries to limit the number of visitors. The second Web site that the commenter provided contains general information about the species and only regional and county-level information about the location of the area occupied by this taxon. As noted by the commenter, online herbaria also provide textual information about the location of this species. However, location information provided by these types of databases is often general. Also, these online herbarium databases do not include mapped information and are not likely visited by the public at large.

Therefore, currently available location information is limited and unlikely to be sought out by the general public. The designation of critical habitat, however, would result in a single document—including precise information about the species, where it is found, and a map with geographic coordinates—being published in the **Federal Register**. A primary purpose of the **Federal Register** is to make information readily accessible to the public, in a form that is easy to understand, regarding decisions made by the Federal government.

7. *Comment:* One commenter stated that possible increases in the number of visitors to the area where *Trichostema austromontanum* ssp. *compactum* grows following designation of critical habitat could be minimized through a variety of mechanisms after designation.

Our Response: The commenter did not provide any suggestions of the type of mechanisms that could be used to minimize visitation following the publication of critical habitat maps.

8. *Comment:* One commenter stated that the analysis for the prudency determination does not address the issue of global climate change. The commenter stated that species like *Trichostema austromontanum* ssp. *compactum* are vulnerable to the effects of global climate change because of their small population size and their location at high altitudes (Parmesan 2006).

Our Response: The article cited by the commenter (Parmesan 2006) reviews several cases where climate change has resulted in shifts in species' phenology, distribution, and in some cases extinction or extirpation. We are not currently aware of any species-specific information indicating that global climate change is a potential threat for *Trichostema austromontanum* ssp. *compactum,* nor did the commenter provide any species-specific information. At this time, we do not know how climate change will affect *T. a.* ssp. *compactum.* Currently, the habitat where this taxon is found is isolated and a function of the local topography. If changes in climate shift the timing or the amount of precipitation or the amount of evaporation at this location, *T. a.* ssp. *compactum* could be affected; however, we do not currently have information on how and to what extent the taxon might be affected. Furthermore, including an attempt to address any potential impacts of global climate change to *T. a.* ssp. *compactum* would not alter our critical habitat prudency analysis in this situation. An analysis of such a potential threat would not change our conclusion that the identification of critical habitat for *T. a.* ssp. *compactum* can be expected to increase the degree of threat from trampling, and that any benefits resulting from a designation are outweighed by that expected increase in human threat to the taxon.

9. *Comment:* One commenter stated that critical habitat allows for a set of checks and balances that support rare species conservation under unforeseen future changes in management.

Our Response: If a Federal project was proposed that could negatively impact *Trichostema austromontanum* ssp. *compactum,* a section 7 consultation would be required. The designation of critical habitat would benefit the species by ensuring that a Federal project would not result in the destruction or adverse modification of the designated critical habitat. However, because of the low likelihood of a project with a Federal nexus occurring in the taxon's habitat, we believe that the increased threat to the plant due to potential increased human visitation outweighs the benefits of designating critical habitat for this taxon (see ''Prudency Determination'' section below for a detailed discussion). In addition, we do not foresee any changes in management that would result in destruction or adverse modification of the habitat for this taxon, based on: (1) The considerable management effort that CDPR has already undertaken to conserve *T. a.* ssp. *compactum;* (2) CDPR's commitment to work with us, California Department of Fish and Game, California Native Plant Society and Rancho Santa Ana Botanic Garden to establish a long-term conservation strategy for this taxon; and (3) the fact that specific area where this plant is found is a designated State of California Natural Preserve, which means that protection and management of sensitive resources is the highest priority for this area.

Summary of Changes From the Proposed Prudency Determination

We made changes in this final prudency determination on the basis of public or peer review comments and information received during the open comment period. Specifically we:

1. Added information related to the distribution and time of flowering for the species (see response to Comment 1 and the ''Background'' section);

2. Added information about the need for future Federal projects to consult under section 7(a)(2) of the Act (see response to Comment 4); and

3. Clarified the suggestion that no information is available on the internet relating to the location where this species occurs (see response to Comment 6).

These revisions added clarity and specificity to the rule; however we did not change our determination that the designation of critical habitat is not prudent at this time.

Prudency Determination

Background

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is determined to be endangered or threatened. Regulations under 50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity and the identification of critical habitat can be expected to increase the degree of threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

In our September 14, 1998 final listing rule (63 FR 49006), we determined that a designation of critical habitat could increase the degree of threat to *Trichostema austromontanum* ssp. *compactum,* and that such designation also would not be beneficial to the taxon. In the final listing rule (63 FR 49019) we stated:

(1) *Trichostema austromontanum* ssp. *compactum* occurs only in a wilderness area on State [CDPR] lands with little potential for Federal involvement. Trails, signage, map notations, and references to the habitat area have been removed by the State to reduce impacts to this highly localized taxon;

(2) Designation of critical habitat would have little benefit to this taxon and would not increase the commitment or management efforts of the State; and

(3) Designation of critical habitat likely would be detrimental to this taxon because publishing maps and descriptions of the exact locality identifies the site as a unique area. Such a distinction may encourage recreational use of the area and negatively impact the taxon.

Pursuant to the Court's April 14, 2005, stipulated settlement agreement and order, and as announced in our September 26, 2006, proposed not-prudent determination (71 FR 56094), we have withdrawn our previous not-prudent determination. Consistent with the requirements of the Act and our aforementioned settlement agreement and order, we are now finalizing our new determination of not prudent for *Trichostema austromontanum* ssp. *compactum.* The determination involves a weighing of the expected increase in threats associated with a critical habitat designation against the benefits gained by a critical habitat designation. An explanation of this ''balancing'' evaluation follows.

We listed *Trichostema austromontanum* ssp. *compactum* under the Act on the basis of threats of trampling associated with recreational activities and low numbers of individual plants. Before the CDPR took steps to minimize the visibility of the sensitive habitat that supports *T. a.* ssp. *compactum,* there was a clearly marked trail to the location. The area was used for many different types of recreational uses. These activities impacted the sensitive vegetation in the area by trampling live plants and creating multiple footprints in the wet soil around the margin of the vernal pool, further impacting habitat through soil compaction and alteration of hydrology (Hamilton 1983, pp. 75–88; 63 FR 49006). Since listing, the CDPR has continued to implement management actions designed to reduce visitation to this area. It has removed reference to the area from its trail maps and signs, and removed all markers for trails to this area in order to reduce recreational use. Although the only known location was publicly available in the past, the currently available location information is limited and unlikely to be sought out by the general public. In contrast, the public notice requirements of the Act, including publication of precise site location information and a map in the **Federal Register** and the publicity that accompanies the publication of a critical habitat rule, are intended to make information readily accessible to the general public in a form that is easy to understand.

The CDPR has continued its efforts to address the threats from trampling by further excluding recreational users from the area. In 2000, CDPR erected a barrier on the trail to the area to exclude horses and pack animals from this sensitive area. In 2002, they designated the vernal pool and the surrounding area as a Natural Preserve (CDPR 2002 p. 62). A Natural Preserve is a State designation that prioritizes resource protection within the area over recreational use and, therefore, measures can be taken to ensure the long-term survival of *Trichostema austromontanum* ssp. *compactum.* Recent visits to the site by the Service suggest that there has been a decrease in equestrian use of the area as a result of the barrier installed along the trail (Snapp-Cook 2006; Wallace 2003, 2005).

As part of the process of determining the prudency of designating critical habitat for *Trichostema austromontanum* ssp. *compactum,* we met with CDPR to discuss management activities now being conducted for this taxon. Ongoing and past actions that CDPR has initiated, partially due to the listing of this taxon, appear to be adequate to protect and maintain the plant's habitat. On a 2006 field visit to the site, we only found minimal signs of human use at the vernal pool, reflected in a worn trail passing the upper boundary of the vernal pool. However, we did not see evidence of more damaging activities such as trash or fire pits that would be associated with camping, nor hoof prints or horse manure that would be associated with equestrian use (Snapp-Cook 2006). This observation contrasted with the condition of the site prior to the CDPR implementing management actions for this plant and the condition of the site described at the time of listing (Hamilton 1983; 63 FR 49006). We were able to observe *T. a.* ssp. *compactum* around the margins of the vernal pool and none of the plants showed any signs of damage from trampling on that particular site visit.

To support the effectiveness of the management measures that CDPR has put in place, a formal study to monitor the recreation use of the area is needed. The Service has recently helped the State of California secure funding to conduct a study to determine the condition of the population and the effectiveness of the management by CDPR. Funding has also been secured to survey and sign the legal boundaries of the established Natural Preserve so the regulations of the Natural Preserve can be enforced. In addition, a seed banking program that includes collection of seeds, a conservation strategy, and a monitoring program will be established. Through this funding, we are committed to work with CDPR, California Department of Fish and Game, California Native Plant Society and Rancho Santa Ana Botanic Garden to establish a long-term conservation strategy for *Trichostema austromontanum* ssp. *compactum.* These conservation actions were previously recommended in a research project that focused on *T. a.* ssp. *compactum* (Bauder 1999, p. 38), and should provide additional protection and help conserve this taxon.

While the primary threat to *Trichostema austromontanum* ssp. *compactum*—trampling—appears to have been minimized, little information exists on the status of the taxon. To obtain all available information on this taxon, we initiated a 5-year status review in accordance with section 4 of the Act. We published a notice announcing the initiation of this 5-year review and the opening of the first 60-day comment period in the **Federal Register** on July 7, 2005 (70 FR 39327). We published another notice reopening the comment period for an additional 60 days in the **Federal Register** on November 3, 2005 (70 FR 66842). As part of our review, we evaluated the federally listed status of this taxon based on the threats to the plant and its habitat, and recommended that no change be made to the listing status until a few specific conservation actions under way by the CDPR have been concluded. The completed 5-year review for this taxon is available upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section) or for downloading from the following Web site: *http://www.fws.gov/carlsbad.*

Increased Threat to the Taxon by Designating Critical Habitat

The process of designating critical habitat can be expected to increase human threats to *Trichostema austromontanum* ssp. *compactum* by increasing the visibility of this plant and its location. Along with maps published in the **Federal Register**, a critical habitat designation generally results in the news media publishing articles in local newspapers and/or special interest Web sites, usually with maps of the critical habitat and photos of the rare species. This type of publicity could generate increased interest in the species by both the public and the scientific community. In this particular case, *T. a.* ssp. *compactum* occurs within a State Park with a high rate of visitation. We are concerned that the publication of maps outlining the only location of this rare taxon will result in increased visitation to the area.

Trichostema austromontanum ssp. *compactum* is small and hard to see because it blends in with other short herbaceous plants on the ground. Careful and detailed training is needed to identify this taxon. It is likely that people visiting the critical habitat would not find the plant and, in the act of looking for it, disturb its sensitive habitat. In addition, because this area has been designated as a Natural Preserve and CDPR manages the area to minimize recreational use, no signed trails or observation areas are in place that could allow for interested persons to observe the plant from a non-intrusive location. Thus, even well-meaning and informed visitors may cause significant damage by inadvertently trampling these tiny plants and adversely affecting the habitat.

The District Superintendent of the Inland Empire District of California State Parks has expressed concern to the Service that the critical habitat designation process may place this plant at increased risk via increased visitation (Watts 2006). Our publication of a critical habitat map identifying the location and subsequent publicity of this action would be counter to conservation actions taken by CDPR to make the area less visible. Prior to these actions to minimize recreational impacts to this taxon, it was apparent that the plant was in danger of going extinct as a consequence of impacts associated with visitation to the areas and recreational use of the taxon's habitat. The small size and delicate structure of this plant make it especially vulnerable to trampling by people and animals (Lewis 1945, pp. 284–386; Hamilton 1996). Adverse impacts to this taxon associated with visitation to the area and recreational use of this taxon's habitat led to the listing of *Trichostema austromontanum* ssp. *compactum*. The actions undertaken by CDPR once these concerns were evident began to reverse the negative impacts to the taxon from recreational activities. Following the listing of this plant, CDPR continued to provide measures that were designed to recover it. These actions primarily consisted of removing the location of the taxon's habitat from information available to the public at this State Park. It is important that these and further conservation efforts continue so that this taxon no longer requires the protections afforded it under the Act. We believe that identification of critical habitat for this taxon would again provide specific information to the public about the taxon's location, undermining the conservation efforts and progress achieved by CDPR, and can be expected to increase the degree of threat to this plant from human activity.

In addition to increasing threats to this taxon and countering past and ongoing conservation actions by the State of California, designating critical habitat for this plant would not support our ongoing partnership with CDPR. Most federally listed species in the United States will not recover without the cooperation of non-Federal landowners. Stein *et al.* (1995, p. 400) found that only about 12 percent of listed species were found almost exclusively on Federal lands (i.e., 90 to 100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all. Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998, p. 1407; Crouse *et al.* 2002, p. 720; James 2002, p. 271). Building partnerships and promoting voluntary cooperation of landowners are essential to understanding the status of species on non-Federal lands and are necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection. Therefore, to achieve the conservation of *Trichostema austromontanum* ssp. *compactum*, it is necessary to maintain our partnership with CDPR, and to support CDPR's conservation efforts, including the efforts to minimize the availability of information regarding the plant's location.

Benefits to the Species From Critical Habitat Designation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the 5th and 9th Circuit Court of Appeals have invalidated our definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve its intended conservation role for the species.

The regulatory effect is significantly limited in this case. First, it only applies where there is a Federal nexus—if there is no Federal nexus, designation itself does not restrict actions that destroy or adversely modify critical habitat.

Second, it only limits destruction or adverse modification of critical habitat. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

In regard to the question of a Federal nexus, we are not aware of any proposed projects (with or without a Federal nexus) that would negatively impact *Trichostema austromontanum* ssp. *compactum* and its habitat, nor are any projects expected (see Response to Comment 4 above). The San Jacinto Mountains have been botanically explored for more than 100 years and only one population of this taxon has been found. Because of its association with vernal pool margins, other areas of suitable habitat likely do not exist in this mountain range. The Mount San Jacinto State Park Wilderness is protected from uses that would degrade or destroy natural resources. The specific area where this plant is found is designated by the State of California as a Natural Preserve, which means that protection and management of sensitive resources is the highest priority for this area. It is unlikely that a future project with a Federal nexus will occur within the habitat for this taxon because the habitat is within a Natural Preserve in a State Park, and no changes in land-use are planned for the foreseeable future. In fact, the Service has not engaged in any section 7 consultations for *T. a.* ssp. *compactum* since its listing in 1998.

However, if a federally funded or authorized project with potential to impact this taxon or its habitat did occur, a section 7 consultation would be required. We anticipate that any Federal project that involves grading, digging, or construction that would impact the watershed of the vernal pool where this plant occurs would trigger a section 7 consultation because it would either directly or indirectly impact this taxon. Under section 7(a)(2) of the Act, project impacts would be analyzed and a determination would be made as to whether or not the project would jeopardize the continued existence of the taxon. The designation of critical habitat would ensure that a Federal project would not result in the destruction or adverse modification of the designated critical habitat. However, in the absence of critical habitat, areas that support *Trichostema austromontanum* ssp. *compactum* will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as appropriate. Federally funded or permitted projects affecting listed species outside designated critical habitat areas may still result in jeopardy findings. In this case, we believe that impacts to the taxon and its habitat associated with any Federal project would be adequately assessed and modified, if necessary, to address the conservation needs of this plant through application of the jeopardy standard under section 7(a)(2) of the Act, particularly since this taxon occurs at a single location.

Another potential benefit to *Trichostema austromontanum* ssp. *compactum* from designating critical habitat is that such a designation serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. Generally, providing this information helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the affected species. In this circumstance, the landowner (CDPR) is well aware of the areas important to *T. a.* ssp. *compactum*, and is actively implementing measures to conserve this taxon. Furthermore, designation of critical habitat for *T. a.* ssp. *compactum* will likely undermine the conservation efforts by CDPR and cause harm to *T. a.* ssp. *compactum*. The designation of critical habitat often generates increased interest in a species and inspires people to study the species and visit the habitat. As discussed above, *T. a.* ssp. *compactum* is small and blends in with other short herbaceous plants. Thus, someone attempting to learn more about this plant and its habitat by visiting the site without proper training is likely to harm members of the population in the process. Therefore, we do not find that there is any benefit to the taxon derived from educating landowners, State and local governments, and the public regarding the potential conservation value of areas that would be designated as critical habitat.

Increased Threat to the Species Outweighs the Benefits of Critical Habitat Designation

Upon reviewing the available information, we have determined that the designation of critical habitat can be expected to increase the degree of threat from human activity to *Trichostema austromontanum* ssp. *compactum*, and that this expected increase in the degree of threat outweighs the benefits of designating critical habitat for this taxon. As discussed above, the designation of critical habitat may result in negative effects to the habitat because the dissemination of location information could be expected to result in increased trampling of the plant and its habitat. The unique area where the plant occurs was adversely impacted by a higher level of recreational use in the past. We believe that publication of specific locations and maps associated with a critical habitat designation for this taxon, with the attendant publicity that a designation would likely generate, can be expected to increase interest in the area where the taxon is found because of the interest that the public and scientific community have in rare, threatened, and endangered species, and in unique ecosystems. The sensitive nature of this taxon makes it vulnerable to even a slight increase in the amount of trampling. In a drought year, this species may have less than 100 flowering individuals and a limited amount of activity could damage the majority of the population. The CDPR has implemented measures to decrease visitation and thereby decrease impacts to the area occupied by *T. a.* ssp. *compactum*, and these measures have proven successful in reducing impacts. Designation of critical habitat will undermine the conservation actions that CDPR has already put into place for this taxon. The sensitive nature of this taxon makes it vulnerable to even a slight increase in the amount of trampling. In a drought year, this species may have less than 100 flowering individuals and a limited amount of activity could damage the majority of the population. These ongoing conservation actions appear to have minimized the primary threat to this taxon and we believe that designation of critical habitat would reverse these efforts and increase the threat of trampling to this plant.

Furthermore, we have determined that there is no overall benefit of critical habitat designation to *T. a.* ssp. *compactum* because: (1) The regulatory benefit of a critical habitat designation for this taxon is unlikely to be realized because we do not foresee any future projects (either federal or non-federal) that will negatively impact this taxon; (2) the general educational benefits afforded by critical habitat designation are minimal for this particular taxon; and (3) designation of critical habitat would undermine ongoing conservation efforts and hinder our partnership with CDPR. Therefore, based on our determination that critical habitat designation would increase the degree of threats to *T. a.* ssp. *compactum* and,

at best, provide nominal benefits for this taxon, we find that the increased threat to *T. a.* ssp. *compactum* from the designation of critical habitat far outweighs any benefit of designation.

Prudency Determination

Pursuant to the Court's April 14, 2005, stipulated settlement agreement and order, and as announced in our proposed not-prudent determination (71 FR 56094), we have withdrawn our previous not-prudent determination. On the basis of our review of the best scientific and commercial information available, we again find that designation of critical habitat is not prudent for *Trichostema austromontanum* ssp. *compactum*. We came to this determination after weighing the potential increased threats associated with identifying specific areas as critical habitat against the benefits gained by a critical habitat designation. We have determined that the designation of critical habitat can be expected to increase the degree of threat to this taxon from human activity and would undermine the conservation actions that CDPR has already put into place for this taxon. These ongoing conservation actions appear to have minimized the primary threat to *T. a.* ssp. *compactum*, and as discussed above, we believe that designation of critical habitat may reverse these efforts and increase the threat of trampling to this taxon. Furthermore, we have determined that there are minimal benefits of critical habitat designation for *T. a.* ssp. *compactum*. We have concluded that, even if some benefit from designation may exist, the increased threat to the plant from human activity far outweighs any potential benefit to the taxon. We have, therefore, determined that it is not prudent to designate critical habitat for *T. a.* ssp. *compactum* at this time.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This determination does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This determination will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)

It is our position that, outside the Tenth Federal Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit Court of Appeals (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996).]

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. Because we have determined that designation of critical habitat for *Trichostema austromontanum* ssp. *compactum* is not prudent, and because *T. a.* ssp. *compactum* and its habitat do not occur on Tribal lands, no Tribal lands will be affected by this determination.

References Cited

A complete list of all references cited in this finding is available upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is staff of the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: September 14, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–18678 Filed 9–24–07; 8:45 am]

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Proposed Rules

Federal Register
Vol. 72, No. 185
Tuesday, September 25, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–0381; FRL–8472–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Clean Air Interstate Rule Budget Trading Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Virginia State Implementation Plan (SIP) submitted on March 30, 2007 and supplemented on April 30, 2007 and June 11, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005 and subsequently revised on April 28, 2006 and December 13, 2006. EPA is proposing to determine that the SIP revision fully implements the CAIR requirements for Virginia. Therefore, as a consequence of the SIP approval, EPA will also withdraw the CAIR Federal Implementation Plans (FIP) that address sulfur dioxide (SO_2), nitrogen oxides (NO_X) annual, and NO_X ozone season emissions in Virginia. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006. The CAIR requires affected States to reduce emissions of SO_2 and NO_X that significantly contribute to, and interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind state. The CAIR establishes State budgets for SO_2 and NO_X and requires States to submit SIP revisions that implement these budgets in States that EPA determined contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, and may choose whether or not to participate in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is proposing to approve, Virginia would meet CAIR requirements by participating in the EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions.

DATES: Written comments must be received on or before October 25, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0381 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: powers.marilyn@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–0381, Marilyn Powers, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2007–0381. 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 through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814–2308, or by e-mail at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is EPA Proposing To Take?
II. What Is the Regulatory History of CAIR and the CAIR FIPs?
III. What Are the General Requirements of CAIR and the CAIR FIPs?
IV. What Are the Types of CAIR SIP Submittals?
V. Analysis of Virginia's CAIR SIP Submittal
A. State Budgets for Allowance Allocations
B. CAIR Cap-and-Trade Programs
C. Applicability Provisions for Non-EGU NO_X SIP Call Sources
D. NO_X Allowance Allocations
E. Allocation of NO_X Allowances From Compliance Supplement Pool (CSP)
F. Individual Opt-in Units
VI. Information Pertaining to SIP Submittals From the Commonwealth of Virginia
VII. Proposed Actions
VIII. Statutory and Executive Order Reviews

I. What Action Is EPA Proposing To Take?

EPA is proposing to approve a revision to Virginia's SIP, submitted on March 30, 2007 and supplemented on April 30, 2007 and June 11, 2007. In its SIP revision, Virginia would meet CAIR

requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. EPA is proposing to determine that the Virginia SIP, as revised, will meet the applicable requirements of CAIR. Any final action approving Virginia's SIP revision will be taken by the Regional Administrator for Region 3. As a consequence of the SIP approval, the EPA Administrator will issue a final rule to withdraw the FIPs addressing SO_2, NO_X annual, and NO_X ozone season emissions for Virginia, which will delete and reserve 40 CFR 52.2440 and 2441. The withdrawal of the CAIR FIPs for Virginia is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIPs was premised on a deficiency in the SIP for Virginia. Once the SIP to implement CAIR is fully approved, EPA no longer has authority for the FIPs. Thus, EPA will not have the option of maintaining the FIPs following the full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIPs.

II. What Is the Regulatory History of CAIR and the CAIR FIPs?

The CAIR was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_X for the ozone season (May 1st to September 30th). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

Section 110(a)(2)(D) of the CAA requires states to reduce emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS in downwind states. CAIR explains to subject States what must be included in their SIPs to address the requirements of section 110(a)(2)(D) with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These findings started a 2-year clock for EPA to promulgate a FIP to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006 (71 FR 25328), EPA promulgated FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. Each CAIR State is subject to the FIPs until the State fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone season trading programs, as appropriate. The SO_2, NO_X annual, and NO_X ozone season trading programs of the CAIR FIPs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to create, effectively, a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all States covered by the CAIR FIP or SIP trading program for that pollutant. The CAIR FIP also allows States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (e.g., the methodology for allocating NO_X allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006 (71 FR 25287 and 71 FR 25303), EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for $PM_{2.5}$, and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

The CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. The CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs. With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA anticipates that most States will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding

provisions of the CAIR FIPs (e.g., the NO_X allowance allocation methodology).

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. The CAIR provides that States may only make limited changes to the model rules if the States want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

1. Include NO_X SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_X ozone season trading program;
2. Provide for State allocation of NO_X annual or ozone season allowances using a methodology chosen by the State;
3. Provide for State allocation of NO_X annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or
4. Allow units that are not otherwise CAIR units to opt individually into the CAIR SO_2, NO_X annual, or NO_X ozone season trading programs under the opt-in provisions in the model rules.

An approved CAIR full SIP revision addressing EGUs' SO_2, NO_X annual, or NO_X ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions.

V. Analysis of Virginia's CAIR SIP Submittal

EPA believes that Virginia clearly intends, by this SIP submittal, to replace the CAIR FIP with a State plan that is based on the CAIR model rule and allow subject sources, non-EGUs from its NO_X SIP Call budget trading program, and opt-in units meeting the CAIR opt-in criteria to participate in the EPA-administered regional CAIR trading program. However, EPA also believes that there are some provisions of the amendments to Virginia regulations (9 VAC 5–140) that could be interpreted in a way that might be inconsistent with the Commonwealth's intent. These specific provisions pertain to definitions associated with Virginia's participation in the regional CAIR trading program, definitions associated with the State's decision to bring its non-EGUs from its NO_X SIP Call budget trading program into the CAIR trading program, and a definition of the term ''most stringent state of federal NO_X emissions limitation'' that is based upon the model rule but has been expanded to include the situation where more than one fuel is allowed by a permit.

On September 12, 2007, EPA sent a letter to the Virginia Department of Environmental Quality (VADEQ) asking the Commonwealth to confirm that EPA correctly understood how Virginia intended to interpret and implement these regulatory definitions. In response to EPA's letter, VADEQ sent a letter dated September 17, 2007, confirming in writing its interpretations of these regulatory provisions. EPA has reviewed VADEQ's interpretations and has determined that they clarify the language of the Virginia regulations and are also consistent with having the EPA-administered CAIR trading program become effective in Virginia. In addition, the letter accepts EPA's recommendation that the Commonwealth promulgate and codify clarifying amendments to these provisions of its regulations at the earliest opportunity.

A. State Budgets for Allowance Allocations

The CAIR NO_X annual and NO_X ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/MMBtu, for phase 1, and 0.125 lb/MMBtu, for phase 2, to obtain regional NO_X budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_X annual and NO_X ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO_2 budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.5 ton of SO_2 emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO_2 emissions in the CAIR trading program.

In today's action, EPA is proposing approval of Virginia's SIP revision that adopts the budgets established for the Commonwealth in CAIR. These budgets are: 36,074 tons for NO_X annual emissions from 2009 through 2014, and 30,062 tons from 2015 and thereafter; 20,098 tons for NO_X ozone season emissions from 2009 through 2014, and 17,432 tons from 2015 and thereafter; and 63,478 tons for SO_2 emissions from 2010 through 2014, and 44,435 tons from 2015 and thereafter. Virginia's SIP revision sets these budgets as the total amounts of allowances available for allocation for each year under the EPA-administered cap-and-trade programs. The NO_X ozone season budget properly reflects the inclusion of NO_X SIP Call trading program units in the CAIR NO_X ozone season program.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and NO_X ozone-season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a CSP under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program.

In addition, States have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and NO_X ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under title IV of the CAA. The SO_2 model rule uses the title IV allowances for compliance, with each title IV allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with

changes made to account for federal rather than state implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs.

In its SIP revision, Virginia chooses to implement its CAIR budgets by requiring EGUs to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. Virginia's full CAIR SIP revision adopts, with certain allowed changes, the CAIR model cap-and-trade rules for SO_2, NO_X annual, and NO_X ozone season emissions.

C. Applicability Provisions for Non-EGU NO_X SIP Call Sources

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR. EPA advises States exercising this option to add the applicability provisions in the State's NO_X SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO_X ozone season trading program all units required to be in the State's NO_X SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e., units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_X SIP Call trading program.

Virginia has chosen to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all non-EGUs in the Commonwealth's NO_X SIP Call trading program, and has incorporated into CAIR the definitions from its NO_X SIP Call trading program that are required in order to cover all the large industrial boilers and combustion turbines that are currently or may become subject to the rule.

D. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and NO_X ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

Virginia has retained most aspects of the NO_X annual and NO_X ozone season model trading rules pertaining to allowance allocations, but has changed the basis for allocating allowances, and the use and size of the allowance set-asides, within the flexibilities described. The Commonwealth uses a commencement of operation date of January 1, 2006 for purposes of calculating the average baseline heat input. The CAIR NO_X units that commenced operation prior to this date receive allowance allocations in accordance with the model rule. The CAIR NO_X units that commence operation after this date receive allocations in accordance with expanded provisions that allow for computation of an average heat input for units operating from between one to five years. Virginia chose not to adjust for fuel type in its computation of average heat input.

Virginia has also chosen to modify the NO_X annual and NO_X ozone season model rule provisions pertaining to the set aside. It has established a new unit set aside that consists of four percent of the total Commonwealth budget from 2009 through 2013 and one percent from 2014 and after. It has also established an annual, voluntary public health set-aside that will be retired, and a one percent energy efficiency/renewable energy set-aside for each control period.

E. Allocation of NO_X Allowances From Compliance Supplement Pool (CSP)

The CAIR establishes a CSP to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR NO_X annual model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

The CSP for Virginia is comprised of 5,134 tons of NO_X. Virginia has chosen to distribute the CSP, but has modified the provisions of the CAIR NO_X annual model trading rule concerning the allocation of allowances from the CSP. Virginia requires that CAIR NO_X units that are part of a group of units under single ownership, with combined emissions of NO_X that exceeded 40,000 tons in 2004, collectively reduce emissions in 2007 and/or 2008 by an amount equal in number to the CSP, and establishes a methodology for allocating to such units from the CSP. This change is within the flexibility of the CAIR NO_X annual model rule.

F. Individual Opt-in Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program

must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

For the CAIR NO_X annual trading program, the CAIR NO_X ozone season trading program, and the CAIR SO_2 trading program, Virginia has chosen to allow non-EGUs meeting certain requirements to opt into the CAIR NO_X annual trading program. Virginia has adopted both of the methodologies for allocating allowances that are in the model rule.

VI. Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege''' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VII. Proposed Action

EPA is proposing to approve Virginia's full CAIR SIP revision submitted on March 30, 2007, and supplemented on April 30, 2007 and June 11, 2007. Under the SIP revision, Virginia is choosing to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA is proposing to determine that the SIP revision will meet the requirements of CAIR. As a consequence of the SIP approval, the Administrator of EPA will issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIPs for SO_2, NO_X annual, and NO_X ozone season emissions for Virginia. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VIII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal

Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This action proposing approval of Virginia's CAIR budget trading program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: September 19, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E7–18849 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2007–0605; FRL–8473–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Scranton/Wilkes-Barre 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Maintenance Plan and 2002 Base-Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Scranton/Wilkes-Barre ozone nonattainment area (''Scranton/Wilkes-Barre Area'' or ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). The Scranton/Wilkes-Barre Area is comprised of Lackawanna, Luzerne, Monroe and Wyoming Counties. EPA is proposing to approve the ozone redesignation request for the Scranton/Wilkes-Barre Area. In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Scranton/Wilkes-Barre Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is proposing to make a determination that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone NAAQS, based upon three years of complete, quality-assured ambient air quality monitoring data for 2004–2006. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that the Scranton/Wilkes-Barre Area has met the criteria for redesignation to attainment specified in the Clean Air Act. In addition, the Commonwealth of Pennsylvania has also submitted a 2002 base-year inventory for the Scranton/Wilkes-Barre Area, and EPA is proposing to approve that inventory for the Area as a SIP revision. EPA is also providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the maintenance plan for the Scranton/Wilkes-Barre Area for purposes of transportation conformity, and is proposing to approve those MVEBs. EPA is proposing approval of the redesignation request, the maintenance plan, and 2002 base-year inventory SIP revisions in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before October 25, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0605 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: powers.marilyn@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–0605, Marilyn Powers, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2007–0605. 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 through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by e-mail at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What Are the Clean Air Actions EPA Is Proposing To Take?
II. What Is the Background for These Proposed Actions?
III. What Are the Criteria for Redesignation to Attainment?
IV. Why Is EPA Taking These Actions?
V. What Would Be the Effect of These Actions?
VI. What Is EPA's Analysis of the Commonwealth's Request?
VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Maintenance Plan for the Scranton/Wilkes-Barre Area Adequate and Approvable?
VIII. Proposed Actions
IX. Statutory and Executive Order Reviews

I. What Are the Clean Air Actions EPA Is Proposing To Take?

On June 12, 2007, the PADEP formally submitted a request to redesignate the Scranton/Wilkes-Barre Area from nonattainment to attainment of the 8-hour NAAQS for ozone. Concurrently, Pennsylvania submitted a maintenance plan for the Scranton/Wilkes-Barre Area as a SIP revision to ensure continued attainment in the Area over the next 11 years. PADEP also submitted a 2002 base-year inventory for the Scranton/Wilkes-Barre Area as a SIP revision. The Scranton/Wilkes-Barre Area is comprised of Lackawanna, Luzerne, Monroe, and Wyoming Counties. It is currently designated a basic 8-hour ozone nonattainment area. EPA is proposing to determine that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone NAAQS and that it has met the requirements for redesignation pursuant to section 107(d)(3)(E) of the Clean Air Act. EPA is, therefore, proposing to approve the redesignation request to change the designation of the Scranton/Wilkes-Barre Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve the Scranton/Wilkes-Barre maintenance plan as a SIP revision for the Area (such approval being one of the Clean Air Act criteria for redesignation to attainment status). The maintenance plan is designed to ensure continued attainment in the Scranton/Wilkes-Barre Area for the next 11 years. EPA is also proposing to approve the 2002 base-year inventory for the Scranton/Wilkes-Barre Area as a SIP revision. Additionally, EPA is announcing its action on the adequacy process for the MVEBs identified in the Scranton/Wilkes-Barre maintenance plan, and proposing to approve the MVEBs identified for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for the Area for transportation conformity purposes.

II. What Is the Background for These Proposed Actions?

A. General

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. The air pollutants NO_X and VOC are referred to as precursors of ozone. The Clean Air Act establishes a process for air quality management through the attainment and maintenance of the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality data for the three years of 2001–2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The Scranton/Wilkes-Barre Area was designated a basic 8-hour ozone nonattainment area in a **Federal Register** notice signed on April 15, 2004 and published on April 30, 2004 (69 FR 23857), based on its exceedance of the 8-hour health-based standard for ozone during the years 2001–2003.

On April 30, 2004, EPA issued a final rule (69 FR 23951, 23996) to revoke the 1-hour ozone NAAQS in the Scranton/Wilkes-Barre Area (as well as most other areas of the country), effective June 15, 2005. *See* 40 CFR 50.9(b); 69 FR at 23996 (April 30, 2004); 70 FR 44470 (August 3, 2005).

However, on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006) (hereafter ''*South Coast*''). On June 8, 2007, in *South Coast Air Quality Management Dist.* v. E*PA,* Docket No. 04–1201, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of Title I, part D of the Clean Air Act as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8 decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under Subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8 decision reaffirmed the December 22, 2006 decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Clean Air Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. In addition, the June 8 decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour

motor vehicle emissions budgets until 8-hour budgets were available for 8-hour conformity determinations, which is already required under EPA's conformity regulations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes. Elsewhere in this document, mainly in section VI. B. ''The Scranton/Wilkes-Barre Area Has Met All Applicable Requirements Under Section 110 and Part D of the Clean Air Act and has a Fully Approved SIP Under Section 110(k) of the Clean Air Act,'' EPA discusses its rationale why the decision in *South Coast* is not an impediment to redesignating the Scranton/Wilkes-Barre Area to attainment of the 8-hour ozone NAAQS.

The Clean Air Act, title I, Part D, contains two sets of provisions-subpart 1 and subpart 2 -that address planning and control requirements for nonattainment areas. Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for ozone nonattainment areas. In 2004, the Scranton/Wilkes-Barre Area was classified a basic 8-hour ozone nonattainment area based on air quality monitoring data from 2001–2003. Therefore, the Scranton/Wilkes-Barre Area is subject to the requirements of subpart 1 of Part D.

Under 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). *See* 69 FR 23857 (April 30, 2004) for further information. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The data completeness requirements are met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of 40 CFR part 50. The ozone monitoring data indicates that the Scranton/Wilkes-Barre Area has a design value of 0.075 ppm for the 3-year period of 2004–2006, using complete, quality-assured data. Therefore, the ambient ozone data for the Scranton/Wilkes-Barre Area indicates no violations of the 8-hour ozone standard.

B. The Scranton/Wilkes-Barre Area

The Scranton/Wilkes-Barre Area consists of Lackawanna, Luzerne, Monroe, and Wyoming Counties in Pennsylvania. Prior to its designation as an 8-hour ozone nonattainment area, the Scranton/Wilkes-Barre Area was a marginal 1-hour ozone nonattainment Area (which included Columbia County, in addition to those counties comprising the 8-hour ozone nonattainment area). Therefore, the Scranton/Wilkes-Barre Area was subject to requirements for marginal nonattainment areas pursuant to section 182(a) of the Clean Air Act. *See* 56 FR 56694 (November 6, 1991). EPA determined that the Scranton/Wilkes-Barre 1-hour ozone nonattainment Area had attained the 1-hour ozone NAAQS by the November 15, 1993 attainment date (60 FR 3349, January 17, 1995).

On June 12, 2007, the PADEP requested that the Scranton/Wilkes-Barre Area be redesignated to attainment for the 8-hour ozone standard. The redesignation request included three years of complete, quality-assured data for the period of 2004–2006, indicating that the 8-hour NAAQS for ozone had been achieved in the Scranton/Wilkes-Barre Area. The data satisfies the Clean Air Act requirements that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration (commonly referred to as the area's design value), must be less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). Under the Clean Air Act, a nonattainment area may be redesignated if sufficient complete, quality-assured data is available to determine that the area attained the standard and the area meets the other Clean Air Act redesignation requirements set forth in section 107(d)(3)(E).

III. What Are the Criteria for Redesignation to Attainment?

The Clean Air Act provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation, providing that:

(1) EPA determines that the area has attained the applicable NAAQS;

(2) EPA has fully approved the applicable implementation plan for the area under section 110(k);

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(5) The State containing such area has met all requirements applicable to the area under section 110 and Part D.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the Clean Air Act, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June, 18, 1990;
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni Director, Air Quality Management Division, October 28, 1992;
- ''Technical Support Documents (TSDs) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
- Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' dated November 30, 1993;
- ''Part D New Source Review (Part D NSR) Requirements for Areas

Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

• ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Taking These Actions?

On June 12, 2007, the PADEP requested redesignation of the Scranton/Wilkes-Barre Area to attainment for the 8-hour ozone standard. On June 12, 2007, PADEP submitted a maintenance plan for the Scranton/Wilkes-Barre Area as a SIP revision, to ensure continued attainment of the 8-hour ozone NAAQS over the next 11 years, until 2018. PADEP also submitted a 2002 base-year inventory concurrently with its maintenance plan as a SIP revision. EPA has determined that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone standard and has met the requirements for redesignation set forth in section 107(d)(3)(E).

V. What Would Be the Effect of These Actions?

Approval of the redesignation request would change the official designation of the Scranton/Wilkes-Barre Area from nonattainment to attainment for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Pennsylvania SIP a 2002 base-year inventory and a maintenance plan ensuring continued attainment of the 8-hour ozone NAAQS in the Scranton/Wilkes-Barre Area for the next 11 years, until 2018. The maintenance plan includes contingency measures to remedy any future violations of the 8-hour NAAQS (should they occur), and identifies the NOX and VOC MVEBs for transportation conformity purposes for the years 2009 and 2018. These MVEBs are displayed in the following table:

TABLE 1.—SCRANTON/WILKES-BARRE MOTOR VEHICLE EMISSIONS BUDGETS, IN TONS PER SUMMER DAY (TPSD)

Year	VOC	NO_X
2009	25.2	48.3
2018	16.9	23.7

VI. What Is EPA's Analysis of the Commonwealth's Request?

EPA is proposing to determine that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone standard, and that all other redesignation criteria have been met. The following is a description of how the PADEP's June 12, 2007 submittal satisfies the requirements of section 107(d)(3)(E) of the Clean Air Act.

A. The Scranton/Wilkes-Barre Area Has Attained the 8-Hour NAAQS

EPA is proposing to determine that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of Part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the design value, which is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor, within the area, over each year must not exceed the ozone standard of 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In the Scranton-Wilkes-Barre Area, there were four ozone monitors that measured ambient ozone air quality between 2004 and 2006. Two of these monitors are located in Lackawanna County and two are in Luzerne County. As part of its redesignation request, Pennsylvania referenced ozone monitoring data for the years 2004–2006 for the Scranton/Wilkes-Barre Area. This data has been quality assured and is recorded in the AQS. The PADEP uses the AQS as the permanent database to maintain its data and quality assures the data transfers and content for accuracy. The fourth-high 8-hour daily maximum concentrations for the period from 2004–2006, along with the three-year average, are summarized in Table 2.

TABLE 2.—SCRANTON/WILKES-BARRE AREA FOURTH HIGHEST 8-HOUR AVERAGE VALUES (2004–2006)

Monitor/County/AIRS ID	Annual 4th highest reading (ppm)		
	2004	2005	2006
Wilson Fire Company Monitor, Lackawanna County, AQS ID 42–069–0101	0.071	0.080	0.071
City of Scranton Monitor, Luzerne County AQS ID 42–069–2006	0.073	0.080	0.070
Nanticoke Monitor, Luzerne County AQS ID 42–079–1100	0.068	0.074	0.064
Wilkes-Barre Monitor, Luzerne County AQS ID 42–079–1101	0.073	0.081	0.073
The Area design value for the 3-year period 2004–2006 is 0.075 ppm (based on Wilkes-Barre Monitor/AQS ID 42–079–1101)			

The air quality data for 2004–2006 show that the Scranton/Wilkes-Barre Area has attained the standard with a design value of 0.075 ppm. The data collected at the Scranton/Wilkes-Barre Area monitors satisfies the Clean Air Act requirement that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The PADEP's request for redesignation for the Scranton/Wilkes-Barre Area indicates that the data is complete and was quality assured in accordance with 40 CFR part 58. In addition, as discussed below with respect to the maintenance plan, PADEP has committed to continue monitoring in accordance with 40 CFR part 58. In summary, EPA has determined that the data submitted by Pennsylvania and data taken from AQS indicate that the Area has attained the 8-hour ozone NAAQS.

B. The Scranton/Wilkes-Barre Area Has Met All Applicable Requirements Under Section 110 and Part D of the Clean Air Act and Has a Fully Approved SIP Under Section 110(k) of the Clean Air Act

EPA has determined that the Scranton/Wilkes-Barre Area has met all

SIP requirements applicable for purposes of this redesignation under section 110 of the Clean Air Act (General SIP Requirements) and that it meets all applicable SIP requirements under Part D of Title I of the Clean Air Act, in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Scranton/Wilkes-Barre Area and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the Clean Air Act. We note that SIPs must be fully approved only with respect to applicable requirements.

The September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant Clean Air Act requirements that came due prior to the submittal of a complete redesignation request. *See also,* Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the Clean Air Act that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the Clean Air Act. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also,* 68 FR at 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

This section sets forth EPA's views on the potential effect of the Court's rulings on this proposed redesignation action. For the reasons set forth below, EPA does not believe that the Court's rulings alters any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from proposing or ultimately finalizing this redesignation. EPA believes that the Court's December 22, 2006 and June 8, 2007 decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the Clean Air Act and longstanding policies regarding redesignation requests.

1. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the Clean Air Act delineates the general requirements for a SIP, which includes enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD));
- Provisions for the implementation of Part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another State. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants in accordance with the NOx SIP Call, October 27, 1998 (63 FR 57356), amendments to the NOx SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and the Clean Air Interstate Rule (CAIR), May 12, 2005 (70 FR 25162). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification in that State. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the State. Thus, we do not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Scranton/Wilkes-Barre Area will still be subject to these requirements after it is redesignated. The section 110 and Part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also,* the discussion on this issue in the Cincinnati redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR at 53099, October 19, 2001). Similarly, with respect to the NOx SIP Call rules, EPA noted in its Phase 1 Final Rule to Implement the 8-hour Ozone NAAQS, that the NOx SIP Call rules are not ''an'' 'applicable requirement' for purposes of section 110(1) because the NOx rules apply regardless of an area's attainment or nonattainment status for the 8-hour (or the 1-hour) NAAQS.'' 69 FR 23951, 23983 (April 30, 2004).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. As we explain later in this notice, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due for the Scranton/Wilkes-Barre Area prior to submission of the redesignation request

2. Part D Nonattainment Requirements Under the 8-Hour Standard

Pursuant to an April 30, 2004, final rule (69 FR 23951), the Scranton/Wilkes-Barre Area was designated a basic nonattainment area under subpart 1 for the 8-hour ozone standard. Sections 172–176 of the Clean Air Act, found in subpart 1 of Part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the Clean Air Act, found in subpart 2 of Part D, establishes additional specific requirements depending on the area's nonattainment classification.

With respect to the 8-hour standard, the court's ruling rejected EPA's reasons for classifying areas under subpart 1 for the 8-hour standard, and remanded that matter to the Agency.

Consequently, it is possible that this area could, during a remand to EPA, be reclassified under subpart 2. Although any future decision by EPA to classify this area under subpart 2 might trigger additional future requirements for the area, EPA believes that this does not mean that redesignation of the area cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating redesignation requests in accordance with the requirements due at the time the request is submitted; and, (2) consideration of the inequity of applying retroactively any requirements that might in the future be applied.

First, at the time the redesignation request was submitted, the Scranton/Wilkes-Barre Area was classified under subpart 1 and was obligated to meet only subpart 1 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the Clean Air Act, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. *See* September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). *See also,* Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (Redesignation of Detroit-Ann Arbor). *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004), which upheld this interpretation. *See* 68 FR 25418, 25424, 25427 (May 12, 2003) (Redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit has recognized the inequity in such retroactive rulemaking, *Sierra Club* v. *Whitman,* 285 F. 3d 63 (D.C. Cir. 2002), in which the D.C. Circuit upheld a District Court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory time frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id.* at 68. Similarly here it would be unfair to penalize the area by applying to it for purposes of redesignation additional SIP requirements under subpart 2 that were not in effect at the time it submitted its redesignation request.

With respect to 8-hour subpart 2 requirements, if the Scranton/Wilkes-Barre Area initially had been classified under subpart 2, the first two Part D subpart 2 requirements applicable to the Area under section 182(a) of the Clean Air Act would be: A base-year inventory requirement pursuant to section 182(a)(1) of the Clean Air Act, and, the emissions statement requirement pursuant to section 182(a)(3)(B).

As stated previously, these requirements are not yet due for purposes of redesignation of the Scranton/Wilkes-Barre Area, but nevertheless, Pennsylvania already has in its approved SIP, an emissions statement rule for the 1-hour standard that covers all portions of the designated 8-hour nonattainment area and, that satisfies the emissions statement requirement for the 8-hour standard. *See,* 25 Pa. Code 135.21(a)(1), codified at 40 CFR 52.2020; 60 FR 2881, January 12, 1995. With respect to the base-year inventory requirement, in this notice of proposed rulemaking, EPA is proposing to approve the 2002 base-year inventory for the Scranton/Wilkes-Barre Area, which was submitted on June 12, 2007, concurrently with its maintenance plan SIP revision. EPA is proposing to approve the 2002 base-year inventory as fulfilling the requirements of both section 182(a)(1) and section 172(c)(3) of the Clean Air Act. A detailed evaluation of Pennsylvania's 2002 base-year inventory for the Scranton/Wilkes-Barre Area can be found in a Technical Support Document (TSD) prepared by EPA for this rulemaking. EPA has determined that the emission inventory and emissions statement requirements for the Scranton/Wilkes-Barre Area have been satisfied.

In addition to the fact that Part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, EPA believes that the general conformity and NSR requirements do not require approval prior to redesignation.

With respect to section 176, Conformity Requirements, section 176(c) of the Clean Air Act requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity'') as well as to all other Federally supported or funded projects (''general conformity''). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the Clean Air Act required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) since State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. *See, Wall* v. *EPA,* 265 F. 3d 426, 438–440 (6th Cir. 2001), upholding this interpretation. *See also,* 60 FR 62748 (December 7, 1995).

In the case of the Scranton/Wilkes-Barre Area, EPA has also determined that before being redesignated, the Area need not comply with the requirement that a NSR program be approved prior to redesignation. EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without Part D NSR in effect. The rationale for this position is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D NSR Requirements or Areas Requesting Redesignation to Attainment.'' Normally, a State's Prevention of Significant Deterioration (PSD) program will become effective in the area immediately upon redesignation to attainment. *See* the more detailed explanations in the following redesignation rulemakings: Detroit, MI (60 FR 12467–12468 (March 7, 1995); Cleveland-Akron-Lorrain, OH (61 FR 20458, 20469–70, May 7, 1996); Louisville, KY (66 FR 53665, 53669, October 23, 2001); Grand Rapids, MI (61 FR 31831, 31836–31837, June 21, 1996). In the case of the Scranton/Wilkes-Barre Area the Chapter 127 Part D NSR regulations in the Pennsylvania SIP (codified at 40 CFR 52.2020(c)(1)) explicitly apply the requirements for NSR in section 184 of the Clean Air Act to ozone attainment areas within the Ozone Transport Region (OTR). The OTR NSR requirements are more

stringent than that required for a marginal or basic ozone nonattainment area. On October 19, 2001 (66 FR 53094), EPA fully approved Pennsylvania's NSR SIP revision consisting of Pennsylvania's Chapter 127 Part D NSR regulations that cover the Scranton/Wilkes-Barre Area.

EPA has also interpreted the section 184 OTR requirements, including the NSR program, as not being applicable for purposes of redesignation. The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to have NSR, as well as reasonably available control technology (RACT), and Vehicle Inspection and Maintenance programs even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the Scranton/Wilkes-Barre Area solely by virtue of the Area's designation and classification. *See* 61 FR 53174, 53175–53176 (October 10, 1996) and 62 FR 24826, 24830–32 (May 7, 1997).

3. Part D Nonattainment Area Requirements Under the 1-Hour Standard

In its June 8, 2007 decision, the Court limited its vacatur so as to uphold those provisions of the anti-backsliding requirements that were not successfully challenged. Therefore the Scranton/Wilkes-Barre Area must meet the federal anti-backsliding requirements. *See* 40 CFR 51.900, *et seq.*; 70 FR 30592, 30604 (May 26, 2005), which apply by virtue of the Area's classification for the 1-hour ozone NAAQS. As set forth in more detail below, the Area must also address four additional anti-backsliding provisions identified by the Court in its decisions.

The anti-backsliding provisions at 40 CFR 51.905(a)(1) prescribe 1-hour ozone NAAQS requirements that continue to apply after revocation of the 1-hour ozone NAAQS to former 1-hour ozone nonattainment areas. Section 51.905(a)(1)(i) provides that: ''The area remains subject to the obligation to adopt and implement the applicable requirements as defined in section 51.900(f), except as provided in paragraph (a)(1)(iii) of paragraph (b) of this section.''

Section 51.900(f), as amended by 70 FR 30592, 30604 (May 26, 2005), states that:

Applicable requirements means for an area the following requirements to the extent such requirements applied to the area for the area's classification under section 181(a)(1) of the Clean Air Act for the 1-hour NAAQS at the time of designation for the 8-hour NAAQS.

(1) Reasonably available control technology (RACT).

(2) Inspection and maintenance programs (I/M).

(3) Major source applicability cut-offs for purposes of RACT.

(4) Rate of Progress (ROP) reductions.

(5) Stage II vapor recovery.

(6) Clean fuels fleet program under section 183(c)(4) of the Clean Air Act.

(7) Clean fuels for boilers under section 182(e)(3) of the Clean Air Act.

(8) Transportation Control Measures (TCMs) during heavy traffic hours as required by section 182(e)(4) of the Clean Air Act.

(9) Enhanced (ambient) monitoring under section 182(c)(1) of the Clean Air Act.

(10) Transportation control measures (TCMs) under section 182(c)(5) of the Clean Air Act.

(11) Vehicle miles traveled (VMT) provisions of section 182(d)(1) of the Clean Air Act.

(12) NO_X requirements under section 182(f) of the Clean Air Act.

(13) Attainment demonstration or alternative as provided under section 51.905(a)(1)(ii).

Pursuant to 40 CFR 51.905(c), the Scranton/Wilkes-Barre Area is subject to the obligations set forth in 51.905(a) and 51.900(f).

Prior to its designation as an 8-hour ozone nonattainment area, the Scranton/Wilkes-Barre Area was designated a marginal nonattainment area for the 1-hour standard. With respect to the 1-hour standard, the applicable requirements under the anti-backsliding provisions at 40 CFR 51.905(a)(1) for the Scranton/Wilkes-Barre Area are limited to RACT and I/M programs specified in section 182(a) of the Clean Air Act and are discussed in the following paragraphs:

Section 182(a)(2)(A) required SIP revisions to correct or amend RACT for sources in marginal areas, such as the Scranton/Wilkes-Barre Area, that were subject to control technique guidelines (CTGs) issued before November 15, 1990 pursuant to Clean Air Act section 108. On December 22, 1994, EPA fully approved into the Pennsylvania SIP all corrections required under section 182(a)(2)(A) of the Clean Air Act (59 FR 65971, December 22, 1994). EPA believes that this requirement applies only to marginal and higher classified areas under the 1-hour NAAQS pursuant to the 1990 amendments to the Clean Air Act; therefore, this is a one-time requirement. After an area has fulfilled the section 182(a)(2)(A) requirement for the 1-hour NAAQS, there is no requirement under the 8-hour NAAQS.

Section 182(a)(2)(B) relates to the savings clause for vehicle inspection and maintenance (I/M). It requires marginal areas to adopt vehicle I/M programs. This provision was not applicable to the Scranton/Wilkes-Barre Area because this area did not have, and was not required to have, an I/M program before November 15, 1990.

In addition the Court held that EPA should have retained four additional measures in its anti-backsliding provisions: (1) Nonattainment area NSR; (2) Section 185 penalty fees; (3) contingency measures under section 172(c)(9) or 182(c)(9) of the Clean Air Act; and (4) 1-hour motor vehicle emission budgets that were yet not replaced by 8-hour emissions budgets. These requirements are addressed below:

With respect to NSR, EPA has determined that areas being redesignated need not have an approved nonattainment New Source Review program, for the same reasons discussed previously with respect to the applicable Part D requirement for the 8-hour standard.

The section 185 penalty fee requirement was not applicable in the Scranton/Wilkes-Barre 1-hour marginal nonattainment area.

With respect to the requirement for submission of contingency measures for the 1-hour standard, section 182(a) does not require contingency measures for marginal areas.

The conformity portion of the Court's ruling does not impact the redesignation request for the Scranton/Wilkes-Barre Area except to the extent that the Court in its June 8 decision clarified that for those areas with 1-hour MVEBs, anti-backsliding requires that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must comply with the applicable requirements of EPA's conformity regulations at 40 CFR part 93. The court clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

Thus EPA has concluded that the area has met all requirements applicable for redesignation under the 1-hour standard.

4. Transport Region Requirements

All areas in the Ozone Transport Region (OTR), both attainment and nonattainment, are subject to additional control requirements under section 184 for the purpose of reducing interstate transport of emissions that may contribute to downwind ozone nonattainment. The section 184 requirements include RACT, NSR,

enhanced vehicle inspection and maintenance (I/M), and Stage II vapor recovery or a comparable measure.

In the case of the Scranton/Wilkes-Barre Area, which is located in the OTR, nonattainment NSR will continue to be applicable after redesignation. On October 19, 2001, EPA approved the 1-hour NSR SIP revision for the Area. *See* 66 FR 53094 (October 19, 2001).

EPA has also interpreted the section 184 OTR requirements, including NSR, as not being applicable for purposes of redesignation. Reading, PA Redesignation, 61 FR 53174, (October 10, 1996), 62 FR 24826 (May 7, 1997). The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the Commonwealth remains obligated to have NSR, as well as RACT, and I/M even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the area by virtue of the area's nonattainment designation and classification, and thus are properly considered not relevant to an action changing an area's designation. *See* 61 FR 53174, 53175–6 (October 10, 1996) and 62 FR 24826, 24830–32 (May 7, 1997).

5. Scranton/Wilkes-Barre Has a Fully Approved SIP for Purposes of Redesignation

EPA has fully approved the Pennsylvania SIP for the purposes of this redesignation. EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni Memo, p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F. 3d 984, 989–90 (6th Cir. 1998), *Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR at 25425 (May 12, 2003) and citations therein.

C. The Air Quality Improvement in the Scranton/Wilkes-Barre Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that the Commonwealth has demonstrated that the observed air quality improvement in the Scranton/Wilkes-Barre Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures. Emissions reductions attributable to these rules are shown in Table 3.

TABLE 3.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2004 IN TONS PER SUMMER DAY (TPSD)

Year	Point*	Area	Nonroad mobile	Highway mobile	Total
Volatile Organic Compounds (VOC)					
2002	4.6	36.0	36.6	19.0	96.2
2004	3.8	35.3	31.6	18.9	89.6
Difference (2002–04)	−0.8	−0.7	−5.0	−0.1	−6.6
Nitrogen Oxides (NO_X)					
2002	8.4	3.8	74.4	11.3	97.9
2004	7.0	3.9	66.1	10.9	87.9
Difference (2002–04)	−1.4	+0.1	−8.3	−0.4	−10.0

*The stationary point source emissions shown do not include banked emissions reduction credits (ERCs) for sources listed in Technical Appendix A–4 to Pennsylvania's SIP submission.

The banked ERCs include the following:

- MACtac, Scranton Facility—0.20 tpsd VOC.
- Proctor & Gamble, Hehoopany—1.70 tpsd VOC and 0.73 tpsd NO_X.
- TECHNEGLAS, Pittston—2.11 tpsd VOC and 0.09 tpsd NO_X.
- Thomson No. 1, Dunmore—0.15 tpsd VOC and 0.02 tpsd NO_X.
- Williams Generation, Hazelton Cogeneration—2.61 tpsd NO_X.

Between 2002 and 2004, VOC emissions decreased by 6.6 tpsd from 96.2 tpsd to 89.6 tpsd. NO_X emissions decreased over the same period by 10.0 tpsd from 97.9 tpsd to 87.9 tpsd. EPA believes that permanent and enforceable emissions reductions are the cause of the long-term improvement in ozone levels and are the cause of the Area achieving attainment of the 8-hour ozone standard. These reductions, as well as anticipated future reductions, are due to the following permanent and enforceable measures.

1. Stationary Point Sources

Federal NO_X SIP Call (66 FR 43795, August 21, 2001)

2. Stationary Area Sources

Solvent Cleaning (68 FR 2206, January 16, 2003)

Portable Fuel Containers (69 FR 70893, December 8, 2004)

3. Highway Vehicle Sources

Federal Motor Vehicle Control Programs (FMVCP)

—Tier 1 (56 FR 25724, June 5, 1991)

—Tier 2 (65 FR 6698, February 10, 2000)

—Heavy-duty Engine and Vehicle Standards (62 FR 54694, October 21, 1997, and 65 FR 59896, October 6, 2000)

National Low Emission Vehicle (NLEV) Program (64 FR 72564, December 28, 1999)

PA Vehicle Emission Inspection/Maintenance Program & Changes to Vehicle Safety Inspection Program in non-I/M Counties (70 FR 58313, October 6, 2005)

4. Non-Road Sources

Non-road Diesel (69 FR 38958, June 29, 2004)

D. The Scranton/Wilkes-Barre Area Has a Fully Approvable Maintenance Plan Pursuant to Section 175A of the Clean Air Act

In conjunction with its request to redesignate the Scranton/Wilkes-Barre ozone nonattainment Area to attainment status, Pennsylvania submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in the Area for at least 11 years after redesignation. The Commonwealth is requesting that EPA approve this SIP revision as meeting the requirement of Clean Air

Act section 175A. Once approved, the maintenance plan for the 8-hour ozone NAAQS will ensure that the SIP for the Scranton/Wilkes-Barre Area meets the requirements of the Clean Air Act regarding maintenance of the applicable 8-hour ozone standard.

What Is Required in a Maintenance Plan?

Section 175 of the Clean Air Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the Commonwealth must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the Clean Air Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address the following provisions:

(a) An attainment emissions inventory;

(b) A maintenance demonstration;

(c) A monitoring network;

(d) Verification of continued attainment; and

(e) A contingency plan.

Analysis of the Scranton/Wilkes-Barre Area Maintenance Plan

(a) *Attainment inventory*—An attainment inventory includes the emissions during the time period associated with the monitoring data showing attainment. PADEP determined that the appropriate attainment inventory year is 2004. That year establishes a reasonable year within the three-year block of 2004–2006 as a baseline and accounts for reductions attributable to implementation of the Clean Air Act requirements to date. The 2004 inventory is consistent with EPA guidance and is based on actual ''typical summer day'' emissions of VOC and NO_X during 2004 and consists of a list of sources and their associated emissions.

The 2002 and 2004 point source data was compiled from actual sources. Pennsylvania requires owners and operators of larger facilities to submit annual production figures and emission calculations each year. Throughput data are multiplied by emission factors from Factor Information Retrieval (FIRE) Data Systems and EPA's publication series AP–42, and are based on Source Classification Codes (SCC). The 2002 area source data was compiled using county-level activity data, from census numbers, from county numbers, etc. The 2004 area source data was projected from the 2002 inventory using temporal allocations provided by the Mid-Atlantic Regional Air Management Association (MARAMA).

The on-road mobile source inventories for 2002 and 2004 were compiled using MOBILE6.2 and Pennsylvania Department of Transportation (PENNDOT) estimates for VMT. The PADEP has provided detailed data summaries to document the calculations of mobile on-road VOC and NO_X emissions for 2002, as well as for the projection years of 2004, 2009, and 2018 (shown in Tables 5 and 6 below).

The 2002 and 2004 emissions for the majority of non-road emission source categories were estimated using the EPA NONROAD 2005 model. The NONROAD model calculates emissions for diesel, gasoline, liquefied petroleum gasoline, and compressed natural gas-fueled non-road equipment types and includes growth factors. The NONROAD model does not estimate emissions from locomotives or aircraft. For 2002 and 2004 locomotive emissions, the PADEP projected emissions from a 1999 survey using national fuel consumption information and EPA emission and conversion factors. Emissions from commercial aircraft for 2002 and 2004 are estimated using EPA-approved Emissions & Dispersion Modeling System (EDMS) 4.20, the latest version available at the time the inventory was prepared. The Scranton/Wilkes-Barre International Airport (AVP) accounts for all commercial air traffic in the area. Small aircraft emissions were calculated using small airport statistics from the Federal Aviation Administration's APO Terminal Area Forecast Report and the Web site *http://www.airnav.com*.

More detailed information on the compilation of the 2002, 2004, 2009, and 2018 inventories can found in the Technical Appendices, which are part of the June 12, 2007 state submittal.

(b) *Maintenance Demonstration*—On June 12, 2007, the PADEP submitted a maintenance plan as required by section 175A of the Clean Air Act. The Scranton/Wilkes-Barre Area maintenance plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year 2004 emissions levels throughout the Area through the year 2018. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA, supra*; *Sierra Club* v. *EPA, supra. See also,* 66 FR at 53099–53100; 68 FR at 25430–32.

Tables 4 and 5 specify the VOC and NO_X emissions for the Scranton/Wilkes-Barre Area for 2004, 2009, and 2018. The PADEP chose 2009 as an interim year in the maintenance demonstration period to demonstrate that the VOC and NO_X emissions are not projected to increase above the 2004 attainment level during the time of the maintenance period.

TABLE 4.—TOTAL VOC EMISSIONS FOR 2004–2018 (TPSD)

Source category	2004	2009	2018
Point	3.8	4.6	5.9
Area	35.3	33.7	36.3
Highway Mobile	31.6	2.2	16.9
Nonroad Mobile	18.9	16.5	13.2
Total	89.6	80.0	72.3

TABLE 5.—TOTAL NO_X EMISSIONS FOR 2004–2018 (TPSD)

Source category	2004	2009	2018
Point	7.0	9.3	10.4
Area	3.9	4.1	4.4
Highway Mobile	66.1	48.3	23.7
Nonroad Mobile	10.9	8.9	5.6
Total	87.9	70.6	44.1

Additionally, the following programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

- The Clean Air Interstate Rule (71 FR 25328, April 28, 2006).
- The Federal NO_X SIP Call (66 FR 43795, August 21, 2001).
- Portable Fuel Containers Rule (69 FR 70893, December 8, 2004).
- Consumer Products Rule (69 FR 70895, December 8, 2004).
- Architectural and Industrial Maintenance (AIM) Coatings (69 FR 68080, November 23, 2004).
- Federal Light-duty Highway Vehicle Control Program (FMVCP)—Tier 1/Tier 2 Emissions Standards (Model Year 1994/2004); (Tier 1—56 FR 25724, June 5, 1991); (Tier 2—65 FR 6698, February 10, 2000).
- Federal Heavy-duty Diesel Highway Engine Standards (Model Year 2004/2007)/Low-Sulfur Highway Diesel Fuel Standards (2006); (66 FR 5002, January 18, 2001).
- Federal Nonroad Engine Emission Standards (Model Year 2008) and Nonroad Diesel Fuel 2007); (69 FR 38958, June 29, 2004).
- NLEV/PA Clean Vehicle Program (54 FR 72564, December 28, 1999).
- PA Vehicle Emission Inspection and Maintenance Program and Changes to Vehicle Safety Inspection Program for Non-I/M Counties (70 FR 58313, October 6, 2005).

Based on the comparison of the projected emissions and the attainment year emissions along with the additional measures, EPA concludes that PADEP has successfully demonstrated that the 8-hour ozone standard should be maintained in the Scranton/Wilkes-Barre Area.

(c) *Monitoring Network*—There are four ozone monitors (located in Lackawanna and Luzerne Counties) that were used to support the Commonwealth's ozone maintenance plan for the Scranton/Wilkes/Barre area. The Commonwealth has committed to continue to operate its monitoring network in accordance with 40 CFR part 58, with no reduction in the number of sites.

(d) *Verification of Continued Attainment*—In addition to maintaining the key elements of its regulatory program, the Commonwealth will track the attainment status of the ozone NAAQS in the Area by reviewing air quality and emissions data during the maintenance period. The Commonwealth will perform an annual evaluation of Vehicle Miles Traveled (VMT) data and emissions reported from stationary sources, and compare them to the assumptions about these factors used in the maintenance plan. The Commonwealth will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, subpart A) to see if they exceed the attainment year inventory (2004) by more than 10 percent. The PADEP will also continue to operate the existing ozone monitoring station in the Area pursuant to 40 CFR part 58 throughout the maintenance period and submit quality-assured ozone data to EPA through the AQS system. Section 175A(b) of the Clean Air Act states that eight years following redesignation of the Scranton/Wilkes-Barre Area, PADEP will be required to submit a second maintenance plan that will ensure attainment through 2028. PADEP has made that commitment to meet the requirement section 175A(b).

(e) *The Maintenance Plan's Contingency Measures*—The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the Clean Air Act requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that the Commonwealth will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

The ability of the Scranton/Wilkes-Barre Area to stay in compliance with the 8-hour ozone standard after redesignation depends upon VOC and NO_X emissions in the Area remaining at or below 2004 levels. The Commonwealth's maintenance plan projects VOC and NO_X emissions to decrease and stay below 2004 levels through the year 2018. The Commonwealth's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur.

Contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentration at any Scranton/Wilkes-Barre Area monitor is above 84 ppb. If this trigger point occurs, the Commonwealth will evaluate whether additional local emission control measures should be implemented in order to prevent a violation of the air quality standard. PADEP will also analyze the conditions leading to the excessive ozone levels and evaluate which measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of Federal, state and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing any selected measures.

Contingency measures will also be considered in the event that a violation of the 8-hour ozone standard occurs at any Scranton/Wilkes-Barre Area monitor. In the event of a violation of the 8-hour ozone standard, PADEP will adopt additional emissions reduction measures as expeditiously as practicable in accordance with the implementation schedule listed later in this notice and in the Pennsylvania Air Pollution Control Act in order to return the Area to attainment with the standard. Contingency measures to be considered for the Scranton/Wilkes-Barre Area will include, but not be limited to the following:

Regulatory measures:

—Additional controls on consumer products.

—Additional controls on portable fuel containers.

Non-Regulatory measures:

—Voluntary diesel engine ''chip reflash'' (installation software to correct the defeat device option on certain heavy-duty diesel engines).

—Diesel retrofits, including replacement, repowering or alternative fuel use, for public or private local on-road or off-road fleets.

—Idling reduction technology for Class 2 yard locomotives.

—Idling reduction technologies or strategies for truck stops, warehouses and other freight handling facilities.

—Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment.

—Additional promotion of alternative fuel (e.g., biodiesel) for home heating and agricultural use.

The plan sets forth a process to have regulatory contingency measures in effect within 19 months of the trigger. The plan also lays out a process to implement non-regulatory contingency measures within 12–24 months of the trigger.

VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Scranton/Wilkes-Barre Maintenance Plan Adequate and Approvable?

A. What Are the Motor Vehicle Emissions Budgets?

Under the Clean Air Act, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (i.e., reasonable further progress SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan, the MVEBs are termed ''on-road mobile source emission budgets.'' Pursuant to 40 CFR part 93 and 51.112, MVEBs must be established in an ozone maintenance plan. An MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. An MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs in control strategy SIPs and maintenance plans.

Under section 176(c) of the Clean Air Act, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of a State's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of or reasonable progress towards the NAAQS. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of such transportation activities to a SIP.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, the MVEB can be used by state and federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the Clean Air Act. EPA's substantive criteria for determining ''adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4).

EPA's process for determining ''adequacy'' consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA consults this guidance and follows this rulemaking in making its adequacy determinations.

The MVEBS for the Scranton/Wilkes-Barre Area are listed in Table 1 for 2009 and 2018. Table 1 presents the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs (safety margin allocation for 2009 and 2018 only). These emission budgets, when approved by EPA, must be used for transportation conformity determinations.

B. What Is a Safety Margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The following example is for the 2018 safety margin: the Scranton/Wilkes-Barre Area first attained the 8-hour ozone NAAQS during the 2002 to 2004 time period. The Commonwealth used 2004 as the year to determine attainment levels of emissions for the Scranton/Wilkes-Barre Area. The total emissions from point, area, on-road mobile, and nonroad mobile sources in 2004 equaled 89.6 tpsd of VOC and 87.9 tpsd of NO_X. The PADEP projects total emissions for the year 2018 to be 72.3 tpsd of VOC and 44.1 tpsd of NO_X from all sources in the Scranton/Wilkes-Barre area. The safety margin for 2018 would be the difference between these amounts, or 17.3 tpsd of VOC and 43.8 tpsd of NO_X. The emissions up to the level of the attainment year including the safety margins are projected to maintain the area's air quality consistent with the 8-hour ozone NAAQS. The safety margin is the extra emissions reduction below the attainment levels that can be allocated for emissions by various sources as long as the total emission levels are maintained at or below the attainment levels. Table 6 shows the safety margins for the 2009 and 2018 years.

TABLE 6.—SAFETY MARGINS FOR SCRANTON/WILKES-BARRE (2009 & 2018)

Inventory year	VOC emissions (tpsd)	NO_X emissions (tpsd)
2004 Attainment	89.6	87.9
2009 Interim	80.0	70.6

TABLE 6.—SAFETY MARGINS FOR SCRANTON/WILKES-BARRE (2009 & 2018)—Continued

Inventory year	VOC emissions (tpsd)	NO_X emissions (tpsd)
2009 Safety Margin	9.6	17.3
2004 Attainment	89.6	87.9
2018 Final	72.3	44.1
2018 Safety Margin	17.3	43.8

The PADEP allocated 1.85 tpsd VOC and 1.4 tpsd NO_X of the 2009 safety margin to the 2009 interim VOC projected on-road mobile source emissions projection and the 2009 interim NO_X projected on-road mobile source emissions projection to arrive at the 2009 MVEBs. For the 2018 MVEBs, the PADEP allocated 2.6 tpsd VOC and 2.1 tpsd NO_X from the 2018 safety margins to arrive at the 2018 MVEBs. Once allocated to the mobile source budgets these portions of the safety margins are no longer available, and may no longer be allocated to any other source category. Table 7 shows the final 2009 and 2018 Scranton/Wilkes-Barre Area MVEBs.

TABLE 7.—FINAL MOTOR VEHICLE EMISSION BUDGETS FOR SCRANTON/WILKES-BARRE AREA* (2009 & 2018)

Inventory year	VOC emissions (tpsd)	NO_X emissions (tpsd)
2009 Projected On road Emissions	23.3	46.9
2009 Safety Margin Allocated to MVEBs	1.85	1.40
2009 MVEBs	25.2	48.3
2018 Projected On road Emissions	14.3	21.6
2018 Safety Margin Allocated to MVEBs	2.6	2.1
2018 MVEBs	16.9	23.7

*PA DEP calculates MVEBS using kilograms per summer day, and also lists the values in tons per summer day, rounded to 3 significant digits. This appears to make the totals in the table incorrect, but is merely the result of the rounded tpsd values.

C. Why Are the MVEBs Approvable?

The 2009 and 2018 MVEBs for the Scranton/Wilkes-Barre Area are approvable because the MVEBs for VOCs and NO_X continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

D. What Is the Adequacy and Approval Process for MVEBs in the Maintenance Plan?

The MVEBs for the Scranton/Wilkes-Barre Area maintenance plan are being posted to EPA's conformity Web site concurrently with this proposal. The public comment period will end at the same time as the public comment period for this proposed rule. In this case, EPA is concurrently processing the Clean Air Action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and EPA is proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan and associated MVEBs are approved in a final **Federal Register** notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period.

If EPA receives adverse written comments with respect to the proposed approval of the Area's MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, we will respond to the comments on the MVEBs in our final action or proceed with the adequacy process as a separate action. Our action on the Scranton/Wilkes-Barre Area MVEBs will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/index.htm* (from there, click on ''Adequacy Review of SIP Submissions'').

VIII. Proposed Actions

EPA is proposing to determine that the Scranton/Wilkes-Barre Area has attained the 8-hour ozone NAAQS. EPA is also proposing to approve the redesignation of the Scranton/Wilkes-Barre Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA has evaluated Pennsylvania's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the Clean Air Act. EPA believes that the redesignation request and monitoring data demonstrate that the Area has attained the 8-hour ozone standard. The final approval of this redesignation request would change the designation of the Scranton/Wilkes-Barre Area from nonattainment to attainment for the 8-hour ozone standard. EPA is also proposing to approve the associated maintenance plan for the Area, submitted on June 12, 2007, as a revision to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan for the Scranton/Wilkes-Barre Area because it meets the requirements of section 175A as described previously in this notice. EPA is also proposing to approve the 2002 base-year inventory for the Scranton/Wilkes-Barre Area, and the MVEBs submitted by Pennsylvania for the Area in conjunction with its redesignation request. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal

requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Because this action affects the status of a geographical area or allows the state to avoid adopting or implementing other requirements and because this action does not impose any new requirements on sources, this proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule, proposing to approve the redesignation of the Scranton/Wilkes-Barre Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: September 14, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–18844 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2007–28710]

RIN 2127–AK02

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA is proposing to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection,'' to update the child restraint systems (CRSs) listed in Appendix A of the standard. The CRSs in Appendix A are used by NHTSA to test advanced air bag suppression or low risk deployment systems, to ensure that the air bag systems pose no reasonable safety risk to infants and small children in the real world. The amendments proposed today would replace some CRSs listed in Appendix A with CRSs that are more representative of the CRS fleet currently on the market. The agency proposes to delete six existing CRSs and to add five new CRSs. Since the appendix has not been revised since 2003, NHTSA also seeks comment on whether seven other CRSs in the appendix should be replaced with CRSs with essentially the same features but more recently produced.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than October 25, 2007. If adopted, most of the amendments would be effective for the next model year introduced one year after the publication of a final rule. Optional early compliance would be permitted. See discussion under ''Proposed Compliance Dates'' section in the preamble of this NPRM.

ADDRESSES: You may submit comments [identified by DOT Docket ID Number 28710] by any of the following methods:

If filing comments by September 27, 2007, please use:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the Department of Transportation Docket Management System electronic docket site. No electronic submissions will be accepted between September 28, 2007, and October 1, 2007.

If filing comments on or after October 1, 2007, use:

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

Alternatively, you can file comments using the following methods:

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.dms.dot.gov* or *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* until September 27, 2007, or the street address listed above. The DOT docket may be offline at times between September 28 through September 30 to migrate to the Federal Docket Management System (FDMS). On October 1, 2007, the Internet access to the docket will be at *http://www.regulations.gov*. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Cuentas, Office of Crashworthiness Standards, Light Duty Vehicle Division (telephone 202–366–4583, fax 202–493–2739). For legal issues, contact Ms. Deirdre Fujita, Office of Chief Counsel (telephone 202–366–2992, fax 202–366–3820). You may send mail to these officials at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. In Deciding To Update Appendix A
a. Guiding Factors
b. Child Restraint Data
c. Additional Considerations
1. Seat Back Height
2. Handles and Sunshields
3. Non-LATCH Child Restraints
III. Proposed Changes
a. Deletions
1. Deletion of the Britax Handle With Care 191 From Subpart B
2. Deletion of the Century Assura 4553 From Subpart B
3. Deletion of the Century (Graco) Encore 4612 From Subpart C
4. Deletion of the Cosco Olympian 02–803 and the Safety First Comfort Ride 22–400 From Subpart C
5. Deletion of the Britax Expressway ISOFIX From Subpart C
b. Additions
1. Addition of the Graco Snugride #8643 to Subpart B
2. Addition of the Peg Perego Primo Viaggio #IMCC00US to Subpart B
3. Addition of the Cosco Summit Deluxe #22–260 to Subpart C
4. Addition of the Graco SafeSeat (Step 2) #8B02 to Subpart C
5. Addition of the Evenflo Generations #352 to Subpart C
c. Updating Other CRSs in Appendix A
IV. Proposed Compliance Dates
V. Clarity of the Tables in Appendix A
VI. Public Participation
VII. Rulemaking Analyses and Notices

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection'' (49 CFR 571.208), requires light passenger vehicles to be equipped with safety belts and frontal air bags for the protection of vehicle occupants in crashes. While air bags have been very effective in protecting people in moderate and high speed frontal crashes, there have been instances in which they have caused serious or fatal injuries to occupants who were very close to the air bag when it deployed. On May 12, 2000, NHTSA published a final rule to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology (''Advanced Air Bag Rule,'' 65 FR 30680, Docket No. NHTSA 00–7013). Under the Advanced Air Bag Rule, to minimize the risk to infants and small children from deploying air bags, manufacturers may suppress an air bag in the presence of a child restraint system (CRS) or provide a low risk deployment (LRD) system.[1]

To minimize the risk to children, manufacturers choosing to rely on an air bag suppression system or LRD system must ensure that the vehicle complies with the suppression or LRD requirements when tested with the CRSs specified in Appendix A of the standard. As part of ensuring the robustness of automatic air bag suppression and LRD systems, NHTSA made sure that the appendix contained CRSs that represented a large portion of the CRS market and CRSs with unique size and weight characteristics. NHTSA also planned regular updates to Appendix A.

On November 19, 2003, in response to petitions for reconsideration of the May 2000 Advanced Air Bag Rule, the agency published a final rule that revised Appendix A by adding two CRSs that were equipped with components that attach to a vehicle's LATCH[2] system (68 FR 65179, Docket No. NHTSA 03–16476). Since September 1, 2002, CRSs have been required by FMVSS No. 213, *Child Restraint Systems* (49 CFR § 571.213), to have permanently-attached components that enable the CRS to connect to a LATCH system on a vehicle. The addition of these ''LATCH-equipped'' CRSs to Appendix A was meant to keep the appendix up-to-date in reflecting current CRS designs.[3]

CRSs in Appendix A

Appendix A is made up of four (4) subparts, subparts A through D.

• Subpart A lists a car bed that can be used by the agency to test the suppression system of a vehicle that is manufactured on or after the effective date specified in Appendix A and that has been certified as being in compliance with 49 CFR 571.208, S19.

• Subpart B lists rear-facing CRSs that can be used by the agency to test the

[1] The LRD option involves deployment of the air bag in the presence of a Child Restraint Air Bag Interaction (CRABI) test dummy, representing a 12-month-old child, in a rear-facing child restraint.

[2] ''LATCH'' stands for ''Lower Anchors and Tethers for Children,'' a term that was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system that vehicle manufacturers must install in vehicles pursuant to FMVSS No. 225, *Child Restraint Anchorage Systems* (49 CFR 571.225). The LATCH system is comprised of two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be attached. FMVSS No. 225 does not permit vehicle manufacturers to install LATCH systems in front designated seating positions unless the vehicle has an air bag on-off switch meeting the requirements of S4.5.4 of FMVSS No. 208.

[3] The compliance date for the provision specifying testing with LATCH-equipped CRSs is September 1, 2008. Earlier dates were delayed (69 FR 51598, Docket 18905; 71 FR 51129, Docket 21244) because test procedures were not in place in FMVSS No. 208 to install LATCH-equipped CRSs in a repeatable manner until this year.

suppression system or the low risk deployment capabilities of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the appendix and that has been certified as being in compliance with 49 CFR 571.208, S19.

• Subpart C lists forward-facing toddler and forward-facing convertible [4] CRSs that can be used by the agency to test the suppression system or the low risk deployment capabilities of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the appendix and that has been certified as being in compliance with 49 CFR 571.208, S19 or S21.

• Subpart D lists forward-facing toddler/belt positioning booster systems and belt positioning booster systems that can be used by the agency to test the suppression system capabilities of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the appendix and that has been certified as being in compliance with 49 CFR 571.208, S21 or S23.

There are one (1) car bed, seven (7) rear-facing child restraint systems, nine (9) forward-facing toddler and forward-facing convertible CRSs [5] and four (4) forward-facing toddler/belt positioning booster systems currently listed and deemed ''effective'' (i.e., may be used in compliance testing) in Appendix A.

II. In Deciding To Update Appendix A

a. Guiding Factors

The November 2003 FMVSS No. 208 final rule discussed factors that the agency considers in deciding whether Appendix A should be updated (68 FR at 65188). NHTSA reviews the appendix to: Maintain a spectrum of CRSs that is representative of the CRS population in production, ensure that only relatively current restraints will be used for compliance testing, determine the availability of the CRSs and determine any change in design, other than those that are purely cosmetic. (If a change to a CRS were clearly cosmetic, such as color scheme or upholstery, the list would not be modified.) [6] In considering whether a particular restraint should be in Appendix A, the agency considers whether the restraint—

—Has mass and dimensions *representative* of many restraints on the market,

—Has mass and dimensions representing *outliers,* and

—Has been a *high sales volume* model.

NHTSA evaluated data, discussed in the next section, and undertook a systematic evaluation of the CRSs in Appendix A. We assessed child restraint system dimensions, weight (mass) and sales volumes (based on confidential manufacturers' data) to identify which CRSs have dimensions that were representative of the average restraint in today's market, and which were possible outliers, with dimensions, weight [7] and/or footprints [8] markedly outside of those of the ''average'' CRS. In addition, the agency identified which CRSs had high production totals and, therefore, likely to have the greatest market share (highest sales volume).

b. Child Restraint Data

The data used for today's NPRM were obtained from CRS manufacturers and NHTSA's Ease-of-Use (EOU) consumer information program. The agency's EOU program started in 2002 in response to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, which directed NHTSA to issue a notice to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. The EOU program encourages CRS manufacturers to produce child restraints with features that make it easier for consumers to use and install correctly. The EOU program seeks to evaluate all CRSs available for sale at retail outlets.

The 2006 EOU program assessed 99 different CRSs (including carryover seats from the previous year that were not changed), selected from 14 different manufacturers (Docket 25344). In addition to those 99 CRSs, data for the CRSs currently listed in Appendix A were also collected during the 2006 EOU program. These data were used to determine whether any changes to the appendix were warranted.

c. Additional Considerations

The agency also considered the following factors in considering changes to Appendix A. NHTSA is interested in comments on the agency's deliberations.

1. Seat Back Height

Automatic air bag suppression systems suppress the air bag when a child or a child in a CRS is placed on the seat, and enable the air bag's deployment if an adult occupies the seat. The threshold for enabling the air bag's deployment is dependent on the design and calibration of the suppression system used. The agency developed Appendix A to include CRSs with a gamut of features that would robustly assess vehicle suppression technologies.

With LRD systems for infants already being used in some vehicles, the agency sought to include, in Subpart B of Appendix A, rear-facing child restraints of varying seat back heights. It seemed especially prudent to have CRSs with low seat back heights. For rear-facing CRSs with relatively low seat back heights, an air bag mounted on the top of the instrument panel may not encounter any reaction surface (resistance) from the CRS seat back, so the air bag could be allowed to fully pressurize. In the real world, the deploying air bag—whose energy was not lowered because it encountered a CRS with the low seat back—may interact in a fully energized state with the child's head as the bag comes over the top of the CRS seat back. NHTSA sought to ensure that the CRSs in Subpart B would ensure that children would not be subjected to unreasonable safety risks from LRD systems. We included in Appendix A rear-facing and convertible CRSs with seat back heights that range from 12.75 to 27 in.[9] [10] The rear-facing CRSs we are proposing to add to the appendix diversify the spectrum of seat back heights.

2. Handles and Sunshields

Features such as handles and sunshields of a rear-facing CRS may complicate and challenge the sensing operation of advanced air bag systems. To ensure that advanced air bags perform well with all types of rear-facing CRSs, we believe that the systems should be tested with rear-facing CRSs that have handles and sunshields. All

[4] A convertible CRS is one that converts from a rear-facing seat to a forward-facing seat. A combination CRS is one that converts from a forward-facing seat to a booster seat or a CRS that is a convertible that can also be used as a booster.

[5] Two of these nine forward-facing toddler and forward-facing convertible CRSs are effective on September 1, 2008.

[6] We also stated that, in considering whether to amend the appendix, we assess whether a variety of restraint manufacturers are represented in the appendix, and whether a combination of restraints are in the appendix. *Id.*

[7] Since the CRSs are used to test air bag suppression systems, it was important to identify which CRSs were the lightest and heaviest, and those that are representative of the average restraint in today's market in terms of weight.

[8] Some air bag suppression systems may have trouble sensing a CRS if the footprint is shaped in a way that loads the air bag suppression system sensors or load cells differently than the CRSs for which the suppression system was designed to recognize.

[9] The upper end of the spectrum (27 in) represents convertible CRSs, which have higher seat back heights than rear-facing-only CRSs.

[10] The height measurement used for the rear-facing CRSs is the height with their base.

rear-facing CRSs currently listed in the appendix have handles, and five (5) of the seven (7) rear-facing CRSs in the appendix have sunshields. The two rear-facing seats we are proposing to add to the appendix both have handles and sunshields. (We intend to adjust the handles and sunshields to the positions specified in the standard to ensure the robustness of the advanced air bag system.)

3. Non-LATCH Child Restraints

Today's NPRM would replace some of the older non-LATCH CRSs in Appendix A with new LATCH-equipped CRSs. At the time of the November 19, 2003 final rule, the agency decided against replacing all the restraints with new LATCH restraints because it was thought at the time that such an amendment would have been a drastic change and would fail to account for the non-LATCH seats that were still being widely used. For today's NPRM, we did not find overriding reasons for retaining the non-LATCH CRSs we are proposing to delete in this NPRM. When the LATCH requirement became effective in 2002 for child restraints, it does not appear that CRS manufacturers changed CRS structures or designs. Accordingly, when tested in a condition where the LATCH restraints are not attached to the vehicle, both suppression and LRD systems would react to LATCH and non-LATCH CRSs similarly.

III. Proposed Changes

After considering the factors for decision-making discussed in the previous section of this preamble, we made tentative decisions about which CRSs should be replaced in Appendix A and which should remain. The following sections will discuss our proposed deletions and additions, along with corresponding rationale for these proposals.[11] Some CRSs undergo annual cosmetic changes that result in different model numbers for the new version. We are aware of one CRS that we are proposing to add that will likely change model numbers before the publication of a final rule. Therefore, the model numbers of CRSs in this NPRM will be reviewed and updated to reflect the latest information available from CRS manufacturers prior to publication of a final rule.

The agency proposes to delete six (6) existing CRSs and to add five (5) new CRSs. Below is Table 1 summarizing the proposed changes to the appendix.

TABLE 1.—SUMMARY OF PROPOSED DELETIONS AND ADDITIONS TO APPENDIX A

Name	Type	Appendix subpart
DELETIONS		
Britax Handle With Care #191	Rear-Facing	B
Century Assura #4553	Rear-Facing	B
Century Encore #4612	Convertible	C
Cosco Olympian #02803	Convertible	C
Safety 1st Comfort Ride #22–400	Convertible	C
Britax Expressway ISOFIX	Forward-Facing	C
ADDITIONS		
Graco Snugride	Rear-Facing	B
Peg Perego Viaggio #IMCC00US	Rear-Facing	B
Cosco Summit DX #22–260	Forward-Facing	C
Evenflo Generations #352	Convertible	C
Graco Safeseat (Step 2)	Combination	C

a. Deletions

Our proposed deletions were based generally on which CRSs did not offer any unique characteristics, those that were produced in the smallest quantities, or those that have not been in production for some time. If we eliminated a CRS that offered a unique characteristic, we made an attempt to replace it with a similar CRS.

1. Deletion of the Britax Handle With Care 191 From Subpart B

The Britax Handle with Care 191 was one of the original CRSs listed in the appendix. The Handle with Care 191 is a rear-facing infant restraint seat with a five-point harness and no base. Because it is not LATCH-compatible, Britax discontinued this CRS on September 1, 2002 with the introduction of LATCH systems. Of all the rear-facing CRSs in Appendix A, it was the lightest (7.9 lb) and the CRS with the lowest production total. Some consumer Web sites report that few consumers purchased this CRS due to it not having a base and its high cost.[12]

After considering these findings, we tentatively conclude that this CRS is not representative of today's CRS fleet, nor does it offer any unique characteristics that are not already adequately represented in other seats remaining in or being added to the appendix (it is not an outlier). Accordingly, we propose its deletion from Appendix A.

2. Deletion of the Century Assura 4553 From Subpart B

The Century Assura 4553 rear-facing CRS is representative of CRSs in today's market. However, there are CRSs on the appendix with similar characteristics which are more available than this CRS. This CRS was discontinued in 2002 and relatively few were ever produced. It became apparent during the collection of data for the CRSs currently in the appendix that the Century Assura was the same CRS as the Century Smart Fit minus the base. Accordingly, we tentatively conclude that this CRS should be deleted from Appendix A.

[11] We noted in the November 2003 FMVSS No. 208 final rule that our periodic review of the child restraints in the appendix may cause the number of CRSs contained therein to change slightly as we identify different trends in the use of CRSs from prior periods. We believed that the number of CRSs should not vary by more than 10–20 percent absent any dramatic changes in the design of restraints.

[12] *http://www.windsorpeak.com/babybargains/bonus10.html* and *http://www.epinions.com/kifm-review-79DA-ACFDDA7-39C15E10-prod1.*

3. Deletion of the Century (Graco) Encore 4612 From Subpart C

Graco discontinued this convertible CRS in 2001. Very few of these units were ever produced relative to other convertible CRSs. This CRS offers no unique dimensional or weight (mass) characteristics nor does it have a unique footprint when compared to other CRSs in the appendix. Therefore, we propose deleting this CRS from Subpart C of the appendix.

4. Deletion of the Cosco Olympian 02–803 and the Safety First Comfort Ride 22–400 From Subpart C

Each of the Cosco Olympian 02–803 and the Safety First Comfort Ride 22–400 is a convertible CRS with a 5-point harness. It became apparent during the collection of data for the CRSs currently in the appendix that the Cosco Touriva 02–519, Cosco Olympian 02–803, and Safety 1st Comfort Ride 22–400 were the same CRS with minor cosmetic changes. After confirming this with Dorel Juvenile Group (DJG), the manufacturer of the restraints, it was determined that these three CRSs came from the same manufacturing shell and were just cosmetically altered. To eliminate the redundancy in Appendix A testing, we propose deleting from the appendix the two CRSs with the lowest production totals, which would be the Cosco Olympian and the Safety 1st Comfort Ride.

5. Deletion of the Britax Expressway ISOFIX From Subpart C

Although located in Subpart C of Appendix A, the Britax Expressway ISOFIX is a forward-facing only CRS and not a convertible. This child restraint was one of the two LATCH-equipped CRSs added by the November 19, 2003, FMVSS No. 208 final rule. On March 20, 2006, the Alliance petitioned NHTSA to remove the Britax Expressway CRS from Appendix A, arguing that the CRS is no longer available on the market, few were sold, and because its inclusion is inconsistent with the principles and criteria that the agency announced that it would use to select CRSs for Appendix A.[13] NHTSA has denied the Alliance's petition (NHTSA Docket 28707), stating that NHTSA would rather take a comprehensive evaluation of the CRSs in Appendix A in deciding whether the Britax Expressway ISOFIX should be included in the appendix, rather than focus solely on the one CRS alone. Today's NPRM is a result of the agency's comprehensive evaluation of Appendix A.

After analyzing the data collected on the Britax Expressway ISOFIX, we determined that there are several factors that argue that the CRS should be maintained in the appendix. First, with respect to mass and dimensions, this CRS could be considered an outlier and thus a potential challenge to suppression systems. It is the heaviest forward-facing CRS listed in the appendix (18.6 lb with the base). It also has a wide flat base that gives it a large footprint. It has the highest base outer width measurement of the 9 forward-facing CRSs listed (13 in). Finally, it has a unique rigid LATCH design, i.e., it uses rigid, fixed metal components rather than a flexible strap to attach the CRS to the vehicle's LATCH lower anchors.

At the same time, however, there are factors that have resulted in our tentative decision to remove this CRS from the appendix. In terms of sales, this CRS was never a high sales volume model. The Alliance's March 2006 petition states that only several hundred units were imported into the U.S., the majority of which were used for testing and evaluation purposes, not for retail sale. Furthermore, this CRS is no longer available for distribution. The agency has also tentatively determined that it would be acceptable to remove the Britax Expressway ISOFIX from the appendix because, at its extremely low sales volume, the CRS is not reasonably represented on the road today. Even as a dimensional and weight outlier, its inclusion is not warranted at such an insignificant level of field presence. For the reasons given above, we propose deleting the Britax Expressway ISOFIX from Appendix A. Furthermore, in this NPRM, the agency is proposing to add a CRS of similarly heavy weight and another that has a similarly large footprint to the appendix. Thus, these outlier characteristics are being maintained in the appendix with seats that are much more widely available.

b. Additions

We sought to include more LATCH-equipped CRSs in the appendix, while recognizing that testing and compliance burdens are impacted each time a CRS in the appendix is changed. Including more LATCH CRSs is believed to be necessary since we had not modified the appendix since November 2003 and only two CRSs listed in the appendix have LATCH attachments, while all CRSs manufactured after September 1, 2002 have been required to have LATCH attachments.

1. Addition of the Graco Snugride #8643 to Subpart B

The Graco Snugride is a rear-facing infant CRS, with a detachable base, flexible LATCH attachments and a 5-point safety harness. This CRS is extremely popular and is one of the highest produced rear-facing CRSs in the U.S. It is also among the lightest rear-facing CRSs in the 2006 EOU program. The weight of the Snugride is 11.2 lb with its base (compared to an average weight of 12.1 lb for rear-facing CRSs in the 2006 EOU program) and 6.1 lb without its base (compared to the average weight of 7.7 lb for similar seats in the 2006 EOU program). We tentatively conclude that the Graco Snugride would be a good replacement for the Britax Handle with Care in terms of its light weight.

Its height and width dimensions make the Snugride representative of the average rear-facing CRS in today's market. The average height and average outer base width dimensions for the rear-facing CRSs, with bases, in the 2006 EOU program are 17.9 in and 10.7 in, respectively. The height and outer base width dimensions of the Graco Snugride with its base are 16 in and 10.5 in, respectively. Because the Snugride appears to be representative of today's CRS fleet, we propose adding it to Subpart B of Appendix A.

2. Addition of the Peg Perego Primo Viaggio #IMCC00US to Subpart B

The Peg Perego Primo Viaggio is a rear-facing infant CRS, with a detachable base, flexible LATCH attachments and a 5-point safety harness. It weighs 18.8 lb with its base and 11.2 lb without its base, making it heavier than any of the rear-facing CRSs currently listed in the appendix[14] and is significantly heavier than the average rear-facing CRSs in the 2006 EOU program (12.1 lb with the base and 7.7

[13] The Alliance also stated that there is ambiguity relating to this CRS because when it was added to the appendix there were discrepancies in the final regulatory text. First, the agency placed this CRS in Section C even though it is not a convertible CRS. In the final rule dated August 20, 2004 (69 FR 51602) we stated that, ''Consistent with the goal of reflecting real world misuse, we will test the Britax ISOFIX Expressway in both directions.'' Second, when it was added to the appendix, this CRS was listed as the ''Britax Expressway ISOFIX,'' yet in the August 20, 2004 final rule, when we amended Subpart C and Subpart D to describe more accurately the CRSs that are in those subparts, we listed this CRS as the ''Britax Expressway.'' This caused confusion because in the preamble of the 2004 final rule, it was still referred to as the ''Britax Expressway ISOFIX,'' and NHTSA never made a technical correction that explained that we inadvertently dropped the ISOFIX designation in the 2004 final rule regulatory text.

[14] The heaviest CRS currently in the appendix is the Britax Expressway ISOFIX that weighs 18.6 lb. The heaviest rear-facing CRS in the appendix is the Century SmartFit that weighs 10.6 lb.

lb without the base). Its base depth and width dimensions (19 in and 15.5 in, respectively) are significantly larger than the average base depth and width of the rear-facing CRSs in the 2006 EOU program (12.8 in and 11.7 in, respectively). For testing purposes, this CRS is also noteworthy because of the flatness of its footprint (see Technical Assessment, in docket for this NPRM). Its footprint appears unique among rear-facing CRSs in the EOU data.

Based on our analysis of the data, we believe that this CRS is somewhat of an outlier in terms of its dimensions and by having a unique footprint. Therefore, we propose adding this restraint to Subpart B of Appendix A.

3. Addition of the Cosco Summit Deluxe #22–260 to Subpart C

The Cosco Summit Deluxe is a forward-facing-only combination CRS with flexible LATCH attachments and a 5-point safety harness. It weighs 15.2 lb, which is just slightly over the 14 lb average weight of the forward-facing CRSs in the 2006 EOU program. It is 28.5 in tall, making it taller than any of the forward-facing CRSs currently in the appendix, the tallest of which is the Evenflo Horizon V at 27 in. The Cosco Summit Deluxe also has a large base with a width of 19.5 in and a depth of 18 in. This base width and depth measurements are significantly wider and deeper than the average base width and depth for the forward-facing CRSs in the 2006 EOU program (12.8 in and 14.9 in, respectively). After consideration of these factors, we tentatively conclude that this CRS would be a good replacement for the Britax Expressway ISOFIX in terms of its wide base and height. Therefore, we propose including the Cosco Summit Deluxe in Subpart C of Appendix A.

4. Addition of the Graco SafeSeat (Step 2) #8B02 to Subpart C

The Graco SafeSeat (Step 2) is a forward-facing only CRS with flexible LATCH attachments and a 5-point safety harness. It is among the heavier forward-facing CRSs on the market. It weighs 21 lb (the average weight of the forward-facing CRSs in the 2006 EOU program is 14 lb). Its height, base width, and base depth measurements are 27.5 in, 15.5 in, and 15 in respectively, compared to the average height, base width, and base depth of 26 in, 12.8 in, and 14.9 in, respectively, for the forward-facing CRSs in the 2006 EOU program. As shown in the technical assessment accompanying this NPRM, the SafeSeat (Step 2) has a unique base configuration because of its relative flatness, and thus has a unique footprint. There are no forward-facing CRSs currently listed on the appendix with a similar footprint, and there would be no remaining forward-facing-only CRSs if the Britax Expressway ISOFIX were to be removed from the appendix. Based on our analysis, we tentatively conclude that this CRS is somewhat of an outlier because of its weight and unique footprint. We believe that if the Britax Expressway ISOFIX were deleted, a CRS with a similar or heavier weight should be added, and that this CRS appears to meet that need. Therefore, we propose adding the Graco SafeSeat (Step 2) to Subpart C of Appendix A.

5. Addition of the Evenflo Generations #352 to Subpart C

The Evenflo Generations is a convertible CRS, with flexible LATCH attachments, and a 5-point safety harness. It is among the lighter forward-facing CRSs in today's market. It weighs 11.7 lb (the average weight of the forward-facing CRSs in the 2006 EOU program is 14 lb). Its height (25 in), base width (10.75 in), and base depth (26 in) appear to be representative of the average height (26 in), base width (12.8 in), and base depth (14.9 in) of the forward-facing CRSs in the 2006 EOU program. Its footprint appears to be unique, as shown in the docketed technical assessment. Also, the footprint in the forward-facing mode is different than the footprint in the rear-facing mode. Because this CRS appears to be an outlier due to its low weight and unique footprint, we propose adding the Evenflo Generations to Section C of Appendix A.

c. Updating Other CRSs in Appendix A

Comments are requested on changing other CRSs in Appendix A. Mindful of compliance burdens and the agency's statement in the September 2003 final rule that NHTSA anticipates changing not more than 10–20 percent of the CRSs in Appendix A in periodic updates of the appendix, these changes are of secondary importance to us compared to the proposed changes of the previous sections, and primarily would simply update the older CRSs in the appendix with newer model CRSs that have the same main physical features as the older restraints. However, it has been nearly 4 years since Appendix A was changed, and with many of the CRSs in the appendix no longer for sale and hard to find, NHTSA would like to take this opportunity to ask for comments on the possible updates to the CRSs as listed in the table below (see technical assessment for data and pictures) and the compliance burdens associated with making these additional changes to Appendix A.

To obtain information on whether CRSs in Appendix A could be replaced by newer, more available models with the same relevant physical features as the Appendix A child restraints, we contacted each manufacturer of the listed CRS and asked which of their more recently-produced CRS could be considered an equivalent replacement for the Appendix A CRS. With one exception discussed below related to the Cosco Dream Ride car bed, manufacturers were able to suggest a possible replacement. (The technical assessment lists the Appendix A replacement CRSs identified by the CRS manufacturers.) With this information on possible replacement CRSs for Appendix A, we decided that the CRSs in the Appendix that have been out of production the longest (i.e., the hardest CRSs to acquire for testing purposes) should be ones we first replace with newer-model CRSs. Those CRSs which we are considering replacing with the newer-model restraints are set forth below in Table 2 for comment. If the comments on this issue indicate that making these updates in this rulemaking is warranted, we could include these additional changes to Appendix A in the final rule following today's NPRM.

TABLE 2.—CRSS THAT COULD BE REPLACED WITH SIMILAR, MORE RECENTLY-PRODUCED RESTRAINTS, AND WHAT THOSE REPLACEMENTS SHOULD BE

Appendix A subpart	CRS in Appendix A	Type of CRS	Replacement
A	Cosco Dream Ride	Car bed	Angel Guard Angel Ride #AA2403FOF.
B	Cosco Arriva 02–727	Rear-facing	Cosco Arriva #22–013.
C	Britax Roundabout	Convertible	Britax Roundabout #E9L02.
C	Century Encore	Convertible	Graco ComfortSport.

TABLE 2.—CRSS THAT COULD BE REPLACED WITH SIMILAR, MORE RECENTLY-PRODUCED RESTRAINTS, AND WHAT THOSE REPLACEMENTS SHOULD BE—Continued

Appendix A subpart	CRS in Appendix A	Type of CRS	Replacement
C	Evenflo Horizon V	Convertible	Evenflo Tribute 5 Deluxe #379.
D	Century Next Step	Combination	Graco Cherished Cargo.
D	Cosco High Back Booster	Booster	Cosco Hi Back Booster #22–209.

Cosco Dream Ride Car Bed (Subpart A)

Subpart A of the appendix lists a car bed, the Cosco Dream Ride, which is no longer being manufactured for retail sale. Cosco was unable to suggest a replacement for this CRS because the manufacturer no longer sells car beds to the general public (the CRS is manufactured and sold mainly for special needs accounts). After consulting with the major CRS manufacturers, we only found one additional car bed that is being manufactured. We are proposing this latter one as our replacement choice because it is being made available to the general public. NHTSA seeks comments on replacing the Cosco Dream Ride with the Angel Guard Angel Ride. Measurements and pictures of this CRS are set forth in the technical assessment.

IV. Proposed Compliance Dates

Consistent with statements NHTSA made in the November 19, 2003 FMVSS No. 208 final rule regarding lead time (68 FR at 65188), the agency proposes that (except as noted below for the Britax Expressway ISOFIX) the compliance date for the proposed changes to Appendix A be the next model year introduced one year after publication of a final rule modifying Appendix A. The lead time would be sufficiently long to provide vehicle manufacturers time to procure the needed child restraints, test vehicles, and certify the air bag systems to FMVSS No. 208, while ensuring the satisfactory performance of vehicles' suppression and LRD systems in an expeditious manner.

Regarding the Britax Expressway ISOFIX, we have tentatively determined this CRS to be exceptionally uncommon in the U.S. and very difficult to obtain. For those reasons, we propose that this CRS be removed from Appendix A effective on the date of publication of the final rule.

This NPRM also proposes to permit manufacturers the option of early compliance with the amended list, i.e., they may choose to certify their vehicles with the updated Appendix A prior to the effective date of the provision, as long as the manufacturer notifies the agency that it is exercising this option. However, NHTSA proposes that manufacturers choosing the early compliance option would not be permitted to pick and choose among the CRSs that would be newly added by the final rule. Vehicle manufacturers choosing the early compliance option would have to ensure that their vehicles meet the advanced air bag requirements when NHTSA uses all of the newly-added CRSs (along with the CRSs that were not affected by the amendment); they may not certify with some, but not all of the newly-added restraints. The reason for this limitation would be to maintain the integrity of the appendix. The Appendix A CRSs are each a part of a comprehensive set. Each CRS in the appendix was selected for a reason, meeting a need not met by other CRSs in the appendix. Picking and choosing among the CRSs could leave a need unmet and an important performance aspect of an advanced air bag system unexplored.

V. Clarity of the Tables in Appendix A

This NPRM would reformat the tables of Appendix A to improve the clarity and simplicity of the tables. NHTSA believes that the current format of the tables might not be optimal in reflecting future and more frequent updates to the Appendix. Comments are requested on how the plain meaning of the tables could be further improved.

VI. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[15]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket

[15] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''Simple Search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2007–1234,'' you would type ''1234.'' After typing the docket number, click on ''Search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

VII. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The costs and benefits of advanced air bags are discussed in the agency's Final Economic Assessment for the May 2000 final rule (Docket 7013). The cost and benefit analysis provided in that document would not be affected by this NPRM, since this NPRM only adjusts and updates the CRSs used in test procedures of that final rule. The minimal impacts of today's amendment do not warrant preparation of a regulatory evaluation.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., NHTSA has evaluated the effects of this action on small entities. I hereby certify that this proposed rule would not have a significant impact on a substantial number of small entities. The NPRM would affect motor vehicle manufacturers, multistage manufacturers and alterers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because they are already required to comply with the advanced air bag requirements. This final rule does not establish new requirements, but instead only adjusts and updates the CRSs used in test procedures of that final rule.

Executive Order 13132

NHTSA has examined today's NPRM pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have federalism implications because a final rule, if issued, would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Further, no consultation is needed to discuss the preemptive effect of today's rulemaking. NHTSA rules can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemptive provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). It is this statutory command that preempts State law, not today's rulemaking, so consultation would be inappropriate.

In addition to the express preemption noted above, the Supreme Court has also recognized that State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes their State requirements unenforceable. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000). NHTSA has not outlined such potential State requirements in today's rulemaking, however, in part because such conflicts can arise in varied contexts, but it is conceivable that such a conflict may become clear through subsequent experience with today's standard and test regime. NHTSA may opine on such conflicts in the future, if warranted. See id. at 883–86.

National Environmental Policy Act

NHTSA has analyzed this NPRM for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This NPRM would not establish any new information collection requirements.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' There

are no voluntary consensus standards that address the CRSs that should be included in Appendix A.

Executive Order 12988

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This rulemaking is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) 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. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–19478).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising items A through D of Appendix A. Figures A1 and A2 at the end of Appendix A are not revised.

The revised text reads as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

Appendix A to § 571.208—Selection of Child Restraint Systems

A. The following car bed, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S19:

	Effective date	Termination date
Cosco Dream Ride 02–719	1/17/2002	*

* Until further notice, any vehicle manufactured after the effective date specified is still subject to testing with this child restraint system.

B. Any of the following rear-facing child restraint systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression or low risk deployment (LRD) system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S19. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

	Effective date	Termination date
Britax Handle with Care 191	1/17/2002	9/1/2009
Evenflo First Choice 204	1/17/2002	*
Graco Infant 8457	1/17/2002	*
Century Assura 4553	1/17/2002	9/1/2009
Century Smart Fit 4543	1/17/2002	*
Cosco Arriva 02727	1/17/2002	*
Evenflo Discovery Adjust Right 212	1/17/2002	*
Peg Perego Primo Viaggio IMCC00US	9/1/2009	*
Graco Snugride	9/1/2009	*

* Until further notice, any vehicle manufactured after the effective date specified is still subject to testing with this child restraint system.

C. Any of the following forward-facing child restraint systems, and forward-facing child restraint systems that also convert to rear-facing, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression or LRD system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S19, or S21. (Note: Any child restraint listed in this subpart that does not have manufacturer instructions for using it in a rear-facing position is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a) and S20.4.2):

	Effective date	Termination date
Century Encore 4612	1/17/2002	9/1/2009
Cosco Olympian 02803	1/17/2002	9/1/2009
Britax Roundabout 161	1/17/2002	*
Century STE 1000 4416	1/17/2002	*
Cosco Touriva 02519	1/17/2002	*
Evenflo Horizon V 425	1/17/2002	*
Evenflo Medallion 254	1/17/2002	*
Safety 1st Comfort Ride 22–400	9/1/2008	9/1/2009
Cosco Summit Deluxe 22–260	9/1/2009	*
Evenflo Generations 352	9/1/2009	*
Graco SafeSeat (Step 2)	9/1/2009	*

* Until further notice, any vehicle manufactured after the effective date specified is still subject to testing with this child restraint system.

D. Any of the following forward-facing child restraint systems and belt-positioning seats, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S21 or S23:

	Effective date	Termination date
Britax Roadster 9004	1/17/2002	*
Century Next Step 4920	1/17/2002	*
Cosco High Back Booster 02–442	1/17/2002	*
Evenflo Right Fit 245	1/17/2002	*

* Until further notice, any vehicle manufactured after the effective date specified is still subject to testing with this child restraint system.

* * * * *

Issued on September 14, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–18716 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU81

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, notice of availability of draft economic analysis, and amended Required Determinations.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on the proposed revised designation of critical habitat for the tidewater goby (*Eucyclogobius newberryi*) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of the draft economic analysis of the proposed revised critical habitat designation and an amended Required Determinations section of the proposal.

The draft economic analysis estimates post-designation costs associated with

conservation efforts for the tidewater goby to be approximately $25 million (undiscounted) over the next 20 years (2007 to 2026) as a result of the proposed designation of critical habitat. Discounted future costs are estimated to be approximately $22 million ($1.5 million annualized) at a 3 percent discount rate or approximately $20 million ($1.8 million annualized) at a 7 percent discount rate. Potential cost savings in Unit VEN–2 associated with tidewater goby conservation efforts range from approximately $35 million to $90 million (undiscounted dollars). By combining these savings with the estimated costs of conservation efforts, an overall net cost savings of approximately $10 million to $65 million (undiscounted) could be realized over the next 20 years. In present value terms, net cost savings range from approximately $9.8 million to $60 million (assuming a 3 percent discount rate) or approximately $9.1 million to $54.0 million (assuming a 7 percent discount rate).

We are reopening the comment period for the proposed rule to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated draft economic analysis, and the amended Required Determinations section. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period, and will be fully considered in preparation of the final designation.

DATES: We will accept public comments until October 10, 2007.

ADDRESSES: You may submit comments and materials to us by any one of the following methods:

(1) You may mail or hand-deliver written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

(2) You may fax your comments to 805/644–3958.

(3) You may send comments by electronic mail (e-mail) to: *fw8gobydea@fws.gov*. For instructions on how to file comments electronically, see the ''Public Comments Solicited'' section below. In the event that our Internet connection is not functional, please submit your comments by one of the alternate methods listed in this section.

(4) You may submit your comments via the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Chris Dellith, Biologist, or Michael McCrary, Listing and Recovery Coordinator, Ventura Fish and Wildlife Office, at the street address listed in **ADDRESSES** (telephone 805/644–1766; facsimile 805/644–3958). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

During this reopened comment period, we solicit comments on the proposed revised critical habitat designation (71 FR 68914; November 28, 2006), our draft economic analysis of the proposed revised designation, and the amended Required Determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the designation can be expected to result in an increase in threats to the species from human activity that outweighs the benefit of designation to the species such that the designation of critical habitat is not prudent.

(2) Specific information on the amount and distribution of tidewater goby habitat; what habitat or habitat features are essential to the conservation of this species and why, which areas occupied at the time of listing containing these features should be included in the critical habitat designation and why, and which areas not occupied at the time of listing are essential to the conservation of the species and should be included in the designation and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed revised critical habitat.

(4) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

(5) Whether our general approach to determine which localities to include in proposed revised critical habitat (44 of the 106 localities that are currently occupied by tidewater gobies) could be improved or modified.

(6) Specifically with reference to those State Park lands under the jurisdiction of the California Department of Parks and Recreation (CDPR) that are proposed for designation, information on any areas covered by conservation or management plans that we should consider for exclusion from the designation under section 4(b)(2) of the Act.

(7) Any additional proposed critical habitat areas covered by conservation or management plans that we should consider for exclusion from the designation under section 4(b)(2) of the Act. We specifically request any information on any operative or draft habitat conservation plans for the tidewater goby that have been prepared under section 10(a)(1)(B) of the Act, or any other management or other conservation plan or agreement that benefits the goby or its primary constituent elements.

(8) Any information concerning Tribal lands or trust resources that may be impacted by this proposed revision to critical habitat.

(9) Information on whether the draft economic analysis should include the voluntary cost of land acquisition by The Nature Conservancy and Trust for Public Lands in Ventura County. These organizations have and will continue to acquire lands in Ventura County to prevent structured flood control (e.g., channelization), which may threaten many species, including the tidewater goby.

(10) Information on whether the draft economic analysis identifies all State and local costs and benefits attributable to the proposed revised critical habitat designation, and information on any costs or benefits that have been inadvertently overlooked.

(11) Information on whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes that would be imposed as a result of the revised designation of critical habitat.

(12) Information on whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the revised designation of critical habitat.

(13) Information on areas that could potentially be disproportionately impacted by the revised designation of tidewater goby critical habitat. The draft economic analysis indicates the potential economic effects of undertaking conservation efforts for this species in California. Based on this information, we may consider excluding portions of these areas from the final revised designation per our discretion under section 4(b)(2) of the Act.

(14) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any

impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts; the reasons why our conclusion that the proposed designation of critical habitat would not result in a disproportionate effect on small businesses should or should not warrant further consideration; and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities.

(15) Information on whether the draft economic analysis appropriately identifies all costs that could result from the revised designation.

(16) Information on whether there are any additional quantifiable economic benefits that could result from the revised designation;

(17) Whether the benefit of excluding any particular area from the critical habitat designation under section 4(b)(2) of the Act outweighs the benefit of including the area in the designation.

(18) Economic data on the incremental effects that would result from designating any particular area as revised critical habitat, since it is our intent to include the incremental costs attributed to the revised critical habitat designation in the final economic analysis.

The Secretary shall designate critical habitat on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. Under section 4(b)(2) of the Act, an area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

Comments and information submitted during the initial comment period on the November 28, 2006, proposed rule (71 FR 68914) need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the proposed rule, draft economic analysis, or the amended Required Determinations provided in this document by any one of several methods (see **ADDRESSES**). Our final designation of critical habitat will take into consideration all comments and any additional information we receive during both comment periods. On the basis of information provided during the public comment periods on the revised critical habitat proposal and the draft economic analysis, and on the basis of the final economic analysis, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and material concerning the above actions by any one of several methods (see **ADDRESSES**). If you use e-mail to submit your comments, please include ''Attn: RIN 1018–AU81'' in your e-mail subject header, preferably with your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail, contact us directly by calling our Ventura Fish and Wildlife Office at 805–644–1766.

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public view your personal identifying information, we cannot guarantee that we will be able to do so. Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate revised critical habitat, will be available for public inspection, by appointment during normal business hours, at the Ventura Fish and Wildlife Office at the street address listed under **ADDRESSES**.

You may obtain copies of the proposed rule and draft economic analysis by mail from the Ventura Fish and Wildlife Office (see **ADDRESSES**), or by calling 805–644–1766 extension 301, or by visiting our Web site at *http://www.fws.gov/ventura/*.

Background

Under the terms of a December 21, 2004, settlement agreement, we agreed to submit for publication in the **Federal Register** a proposed revised critical habitat designation for the tidewater goby by November 15, 2006. We published a proposed rule to revise critical habitat for the tidewater goby on November 28, 2006 (71 FR 68914). The proposed revised critical habitat includes approximately 10,003 acres (ac) (4,050 hectares (ha)) for the tidewater goby in Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties, California.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, in accordance with section 7(a)(2) of the Act.

Draft Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. Based on the November 28, 2006, proposed rule to designate revised critical habitat for the tidewater goby (71 FR 68914), we have prepared a draft economic analysis of the proposed revised critical habitat designation for the tidewater goby.

The draft economic analysis is intended to quantify the economic impacts of all potential conservation efforts for the tidewater goby; some of these costs will likely be incurred regardless of whether critical habitat is designated. The draft economic analysis considers past costs associated with the conservation of the species from the time it was listed (February 4, 1994; 59 FR 5494), as well as costs of conservation-related measures that are likely to be associated with future economic activities that may adversely affect the habitat within the proposed boundaries over a 20-year period. For a further description of the methodology of the analysis, see section 1.3 (Approach to Estimating Economic Impacts) of the draft economic analysis.

The draft economic analysis describes economic impacts of tidewater goby conservation efforts associated with 5 categories of activities: (1) Water management; (2) grazing; (3) transportation; (4) natural resource management; and (5) oil and gas pipeline construction and maintenance.

The draft economic analysis estimates pre-designation costs associated with the conservation of the species to be approximately $11.3 million (undiscounted). Discounted costs are estimated to be approximately $13.1 million at a 3 percent discount rate or approximately $16.3 million at a 7 percent discount rate. The draft economic analysis estimates post-designation costs associated with conservation efforts for the tidewater goby to be approximately $25 million (undiscounted) over the next 20 years (2007 to 2026). Discounted future costs are estimated to be approximately $22 million ($1.5 million annualized) at a 3 percent discount rate or approximately $20 million ($1.8 million annualized) at a 7 percent discount rate.

In critical habitat Unit VEN–2, the City of Ventura's Water Reclamation Facility (VWRF) discharges effluent into the Santa Clara River, sustaining water levels in tidewater goby habitat. Existing water quality control regulations have the potential to require VWRF to cease discharge of effluent into the estuary, which would force the City of Ventura to build a new ocean outfall facility for the effluent. The Service has recommended that the discharge be continued to protect sensitive species, including tidewater goby, for the discharge simulates a more natural environment by maintaining water levels. Potential cost savings to VWRF of installing tertiary treatment and constructing new facilities, rather than moving to an ocean outfall, ranges from $35 million to $90 million (undiscounted).

The cost savings to VWRF are factored into the analysis of economic impacts associated with tidewater goby conservation. By combining these savings with the estimated post-designation costs of conservation efforts described above ($25 million), an overall net cost savings of approximately $10 million to $65 million (undiscounted) could be realized over the next 20 years. In present value terms, potential net cost savings from the designation of critical habitat for the tidewater goby range from approximately $9.8 million to $60 million (assuming a 3 percent discount rate) or approximately $9.1 million to $54.0 million (assuming a 7 percent discount rate).

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the tidewater goby, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the tidewater goby in areas containing features essential to the conservation of the species. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use).

The draft analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the draft analysis looks retrospectively at costs that have been incurred since the date the tidewater goby was listed as endangered (February 4, 1994; 59 FR 5494) and considers those costs that may occur in the 20 years following a designation of critical habitat. Forecasts of economic conditions and other factors beyond this point would be speculative.

As stated earlier, we solicit data and comments from the public on the draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion would not result in the extinction of the species.

Required Determinations—Amended

In our November 28, 2006, proposed rule (71 FR 68914), we indicated that we would be deferring our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders was available in the draft economic analysis. Those data are now available for our use in making these determinations. In this notice we are affirming the information contained in the proposed rule concerning Executive Order (E.O.) 13132; E.O. 12988; the Paperwork Reduction Act; and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). Based on the information made available to us in the draft economic analysis, we are amending our Required Determinations, as provided below, concerning E.O. 12866 and the Regulatory Flexibility Act, E.O. 13211, E.O. 12630, and the Unfunded Mandates Reform Act.

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed revised designation of critical habitat for the tidewater goby, post-designation costs associated with conservation efforts for the tidewater goby (as described above) are estimated to be approximately $25 million (undiscounted) over the next 20 years (2007 to 2026). Discounted future costs are estimated to be approximately $22 million ($1.5 million annualized) at a 3 percent discount rate or approximately $20 million ($1.8 million annualized) at a 7 percent discount rate. In addition, potential cost savings in Unit VEN–2 associated with VWRF's continued maintenance of adequate water flows for the tidewater goby range from approximately $35 million to $90 million (undiscounted dollars). By combining these savings with the estimated post-designation costs of conservation efforts described above ($25 million), an overall net cost savings of approximately $10 million to $65 million (undiscounted) could be realized over the next 20 years. In present value terms, net cost savings from the designation range from approximately $9.8 million to $60 million (assuming a 3 percent discount rate) or approximately $9.1 million to $54.0 million (assuming a 7 percent discount rate).

Therefore, based on our draft economic analysis, we have determined that the proposed revised designation of critical habitat for the tidewater goby will not result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the

agency will then need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement under the Act, we must evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat provided the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)) (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Based upon our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments received, this determination is subject to revision as part of the final rulemaking.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of revised critical habitat for the tidewater goby would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities. We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed revised critical habitat designation is made final, Federal agencies must consult with us under section 7(a)(2) of the Act if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our draft economic analysis of the proposed revised critical habitat designation, we evaluate the potential economic effects on small business entities resulting from conservation actions related to the listing of the tidewater goby and proposed designation of critical habitat. Small entities were evaluated within the following types of economic activities: Water management, grazing, transportation, natural resource management, and oil and gas pipeline construction and maintenance. Based on the results of the analysis, only small entities conducting water management activities and small entities holding cattle grazing permits have the potential to be affected.

The majority of water management activities are large-scale projects involving entities that are not considered small. The primary water management impacts are for expected land purchases to allow flooding and for expected flood control activities. Future conservation enabling land purchases that allow flooding to occur unimpeded are expected from the California Department of Fish and Game (CDFG), The Nature Conservancy, the Trust for Public Land, and the California Coastal Conservancy. The California Coastal Conservancy and CDFG are public agencies, and part of the government of the State of California; they are therefore not considered to be small entities. Both the Trust for Public Land and the Nature Conservancy are national organizations that are dominant in their fields and are not considered small entities.

There are multiple planned flood control mitigation measures by the U.S. Army Corps of Engineers, various California State departments (e.g., Department of Fish and Game, California Coastal Commission), and by several California County governments. Del Norte County is the only County that contains proposed revised critical habitat that meets the definition of small (population less than 50,000); Del Norte County had a population of 27,507 in 2000. Expected water management impacts to Del Norte County are estimated to be $4,000 per year. Del Norte County had annual gross revenues of $51 million in 2004. Thus, impacts to Del Norte County resulting from tidewater goby conservation efforts are considered negligible (less than 0.01 percent of yearly gross revenues).

Impacts to grazing activities include costs associated with fence construction and the value of lost forage. The costs of constructing fences are expected to be borne by the public agencies that manage the lands. These agencies (primarily the CDFG) are not considered small entities. Lost forage value is expected to be borne by the private ranchers that hold permits for grazing on State lands in the study area. However, because the amount of State lands available for grazing within the study area is relatively small, the impacts of lost forage value are also relatively minor. The percentage impact per small grazing entity is expected to be negligible unless all impacts are borne by a single entity.

In summary, we have considered whether this proposed revised designation would result in a significant economic impact on a substantial number of small business entities. For the above reasons and based on currently available information, we certify that the rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. According to the draft economic analysis, the estimated impacts of tidewater goby conservation efforts on Venoco, Inc. for planned oil and gas pipeline construction and maintenance are $145,000 (undiscounted). The operating expenses for oil and natural gas production for Venoco, Inc. were $87.5 million in 2006. Thus, the impacts of tidewater goby conservation efforts are only 0.2 percent of oil and gas production expenses for Venoco, Inc. These impacts are negligible when compared with the cost of energy production and distribution. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) A condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) As discussed in the draft economic analysis of the proposed designation of critical habitat for the tidewater goby, the impacts on small governments is expected to be small. As stated above, expected water management impacts to Del Norte County are estimated to be $4,000 per year. Del Norte County had annual gross revenues of $51 million in 2004. Therefore impacts to Del Norte County for water management are expected to be less than 0.01 percent of yearly gross revenues. Consequently, we do not believe that the designation of critical habitat for the tidewater goby would significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

Executive Order 12630

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing revised critical habitat for the tidewater goby in a takings implications assessment. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. The takings implications assessment concludes that this proposed designation of revised critical habitat for the tidewater goby does not pose significant takings implications.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES**).

Author

The primary author of this notice is the staff of the Ventura Fish and Wildlife Office.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 14, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–18632 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 72, No. 185

Tuesday, September 25, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0073]

Notice of Request for Extension of Approval of an Information Collection; Environmental Monitoring Form

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with environmental monitoring.

DATES: We will consider all comments that we receive on or before November 26, 2007.

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

Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0073 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0073.

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

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

FOR FURTHER INFORMATION CONTACT: For information on an information collection associated with environmental monitoring, contact Dr. Robert Baca, Team Leader, Environmental Compliance, Emergency and Domestic Programs, PPQ, 4700 River Road Unit 150, Riverdale, MD 20737; (301) 734–7592. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Environmental Monitoring Form.

OMB Number: 0579–0117.

Type of Request: Extension of approval of an information collection.

Abstract: The mission of the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is to protect the health and value of American animal and plant resources. In carrying out this mission, APHIS ensures appropriate consideration of the potential environmental effects of its programs.

In accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372), APHIS engages in environmental monitoring for certain activities that we conduct to control or eradicate certain pests and diseases. We monitor those activities that have the greatest potential for harm to the human environment to ensure that the mitigation measures developed to avoid that harm are enforced and effective. In many cases, monitoring is required where APHIS programs are conducted close to habitats of endangered and threatened species. This monitoring is developed in coordination with the U.S. Department of the Interior, Fish and Wildlife Service, in compliance with the Endangered Species Act (50 U.S.C. 17.11 and 17.12).

APHIS field personnel and State cooperators jointly use APHIS Form 2060, Environmental Monitoring Form, to collect information concerning the effects of pesticide use in these sensitive areas. The goal of environmental monitoring is to track the potential impact that APHIS activities may have on the environment and to use this knowledge in making any necessary adjustments in future program actions.

We are asking the Office of Management and Budget (OMB) to approve our use of APHIS Form 2060 for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Growers, appliers of pesticides, State department of agriculture personnel.

Estimated annual number of respondents: 150.

Estimated annual number of responses per respondent: 20.

Estimated annual number of responses: 3,000.

Estimated total annual burden on respondents: 1,500 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response).

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of September 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–18884 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0126]

Notice of Request for Extension of Approval of an Information Collection; Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of fruits and vegetables.

DATES: We will consider all comments that we receive on or before November 26, 2007.

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

Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0126 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0126, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0126.

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

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

FOR FURTHER INFORMATION CONTACT: For information on regulations associated with the importation of fruits and vegetables, contact Ms. Donna L. West, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 734–8758. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS* Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION: *Title:* Importation of Fruits and Vegetables.

OMB Number: 0579–0128.

Type of Request: Extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (7 U.S.C. 7701 *et seq.*) (PPA), the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, means of conveyance, or other article if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA.

The regulations in Subpart-Fruits and Vegetables (7 CFR 319.56 through 319.56–47) allow a number of fruits and vegetables to be imported into the United States, under specified conditions, from certain parts of the world. Importation of papayas from certain regions of Brazil, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands requires the use of certain information collection activities, including phytosanitary certificates, maintaining fruit fly monitoring records, and marking the cartons.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.9940 hours per response.

Respondents: Producers of papayas and plant health officials in regions of Brazil, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

Estimated annual number of respondents: 50.

Estimated annual number of responses per respondent: 10.08.

Estimated annual number of responses: 500.

Estimated total annual burden on respondents: 501 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of September 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–18897 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0088]

Notice of Request for Extension of Approval of an Information Collection; Karnal Bunt; Importation of Wheat and Related Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of wheat and related articles from regions affected with Karnal bunt.

DATES: We will consider all comments that we receive on or before November 26, 2007.

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

Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0088 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0088, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0088.

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

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

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of wheat and related articles from regions affected with Karnal bunt, contact Mr. Hesham A. Abuelnaga, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–0627. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Karnal Bunt; Importation of Wheat and Related Articles.

OMB Number: 0579–0240.

Type of Request: Extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (7 U.S.C. 7701 *et seq.*) (PPA), the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, means of conveyance, or other article if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA.

To prevent the introduction and spread of various wheat diseases, including Karnal bunt (a fungal disease), APHIS' regulations in Subpart-Wheat Diseases (7 CFR 319.59–1 through 319.59–4) prohibit the importation of wheat seed, straw, and other products into the United States from regions affected with Karnal bunt.

The regulations require that certain regulated articles imported from Karnal bunt-free areas within regions regulated for Karnal bunt be accompanied by a phytosanitary certificate that must be completed by an official of the national plant protection organization of the region of origin. The certificate must include a declaration stating that the regulated articles originated in areas where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1.2 hours per response.

Respondents: Foreign national plant protection organization officials.

Estimated annual number of respondents: 500.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 504.

Estimated total annual burden on respondents: 600 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of September 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–18898 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0085]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: You may submit comments by either of the following methods: *Federal eRulemaking Portal*: Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0085 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0085, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0085.

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

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

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. John Greifer, Director, SPS Management Team, International Services, APHIS, room 1132, South Building, 14th Street and Independence Avenue SW.,Washington, DC 20250; (202) 720–7677.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737–1231; (301) 734–5324.

For specific information regarding the standard-setting activities of the International Plant Protection Convention or the North American Plant Protection Organization, contact Ms. Julie E. Aliaga, Program Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737–1236; (301) 734–0763.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

International Standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including

standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 169 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of Member countries for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Member countries. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Member countries for consultation (review and comment). Draft standards are revised accordingly and are then presented to the OIE International Committee (all the Member countries) during the General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for May 25–30, 2008, in Paris, France. Currently, the Deputy Administrator of APHIS Veterinary Services is the official U.S. Delegate to the OIE. The Deputy Administrator of APHIS intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. Information about OIE draft Terrestrial Animal Health Code and Aquatic Animal Health Code chapters may be found on the Internet at *http://www.aphis.usda.gov/vs/ncie/oie/* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial Animal Health Code Chapters and Appendices Adopted

1. Chapter 2.2.10, Foot and Mouth Disease

Guidelines for quicker recovery of status after an outbreak, and the concept of ''containment zone'' were added.

2. Chapter 2.2.12, Rinderpest, and Appendix 3.8.2, Surveillance for Rinderpest

The Code Chapter and surveillance appendix were adopted as proposed in order to assist several African countries.

3. Chapter 2.2.13, Bluetongue

Minor updates were made to this chapter.

4. Chapter 2.3.13., Bovine Spongiform Encephalopathy

This chapter received only minor changes this year. Specifically, for countries that are classified as ''negligible'' risk for BSE, but which have had an indigenous case, live cattle and meat-and-bone meal (MBM) should not be traded if the cattle were born or the MBM was produced prior to the implementation of an effective ruminant-to-ruminant feed ban.

5. Section 2.5, Equine Disease

The following Code chapters were updated:

Chapter 2.5.4, Equine infectious anemia; Chapter 2.5.5, Equine influenza; Chapter 2.5.6, Equine piroplasmosis; Chapter 2.5.7, Equine rhinopneumonitis; Chapter 2.5.8, Glanders; and Chapter 2.5.10, Equine viral arteritis.

6. Chapter 2.7.12, Avian Influenza

This chapter received only a few changes this year. Backyard poultry and fighting cocks were included in the definition of ''poultry.'' In addition, the OIE made it explicit that countries should not impose immediate trade bans when a country reports the detection of highly pathogenic avian influenza in wild birds.

7. Appendix 3.2.1, Bovine and small ruminant semen

The requirement to test for Border disease in sheep was reinstituted.

8. Appendix 3.6.6, General guidelines for the disposal of dead animals

Minor changes were made to this appendix.

9. Appendix 3.7.2, Guidelines for the transport of animals by sea; Appendix 3.7.3, Guidelines for the transport of animals by land; Appendix 3.7.5, Guidelines for the slaughter of animals; and Appendix 3.7.6, Guidelines for the killing of animals for disease control

These guidelines were updated.

OIE Terrestrial Animal Health Code Chapters Up for Adoption

Existing Terrestrial Animal Health Code chapters that may be revised and new chapters that may be drafted in preparation for the next General Session in 2008 include the following:

1. Chapter 1.3.5, Zoning and compartmentalization

These guidelines were refined to clarify some of the basic criteria required to ensure the integrity of a compartment. A checklist on the practical application of compartmentalization for avian influenza and Newcastle diseases was distributed.

2. Chapter 2.5.14, African horse sickness

This is a new chapter that contains draft guidelines provided by the Scientific Commission. It is being circulated to Member countries for comment.

3. Chapter 2.6.6, African swine fever

This new chapter replaces the existing Chapter.

4. Chapter 2.6.7, Classical swine fever; and Appendix 3.8.8, Guidelines for the surveillance of classical swine fever

This chapter and appendix have been extensively rewritten, are being circulated for comment, and will be submitted for adoption in 2008.

5. Chapter 2.7.13, Newcastle disease, and Appendix 3.8.X, Guidelines for the surveillance of Newcastle disease

This draft appendix defines the principles and provides a guide for the surveillance of Newcastle disease.

6. Appendix 3.10.2, Guidelines for the detection, control, and prevention of Salmonella enteritidis and S. typimurium in poultry producing eggs for human consumption

This appendix represents an ongoing complete redrafting of a current OIE Code Chapter. It is being circulated for comment.

7. Draft Appendix, General principles of identification and traceability of live animals

This is a new appendix that provides that animals and products of animal origin should be traceable throughout the animal production and food chain, within the scope of relevant OIE and Codex Alimentarius standards.

8. Draft Guidelines for the control of biological hazards of animal health and public health importance through ante- and post-mortem meat inspection

These new guidelines provide guidance on animal feeding in relation to animal health. They complement the guidance provided by the Codex Code of Practice on Good Animal Feeding (CAC/RCP 54–2004), which deals primarily with food safety.

9. Draft Guidelines on dog population control

These guidelines will form a new chapter that provides for control of stray and feral dog populations.

Code Commission Future Work Program

During the next year, the OIE Code Commission is expected to address the following issues or establish ad hoc groups of experts to update and/or develop standards for the following issues:

1. The harvesting and culling of wildlife.
2. Laboratory animal welfare.
3. Bovine brucellosis.

OIE Aquatic Animal Health Code Chapters and Appendices up for Adoption

Existing Aquatic Animal Health Code chapters that may be revised and new chapters and appendices that have been drafted in preparation for the 2008 General Session include:

Chapter 2.3.7, Crayfish Plague; Chapter 2.3.9, Infectious Myonecrosis; Chapter 2.3.10, Necrotising Hepatopancreatitis; Chapter 2.3.11, White Tail Disease; Chapter 2.3.12, Hepatopancreatic Parvovirus Disease; Chapter 2.3.13, Mourilyan Virus Disease; General Guidelines for Aquatic Animal Health Surveillance; and Guidelines for the Control of Aquatic Animal Health Hazards in Aquatic Animal Feeds.

OIE Aquatic Animal Commission Future Work Program

During the next few years, the OIE Aquatic Animal Commission is expected to address the following issues or establish ad hoc groups of experts to update and/or develop standards for the following issues:

1. Diseases of amphibians.
2. Biosecurity procedures.

The Process

The OIE Code chapters are drafted (or revised) by either the Code Commission or by ad hoc groups composed of technical experts nominated by the Director General of the OIE by virtue of their subject-area expertise. Once a new chapter is drafted or an existing one is revised, the chapter is distributed to Member countries for review and comment. The OIE attempts to provide proposed chapters by late October to allow Member countries sufficient time for comment. Comments are due by early February of the following year. The draft standard is revised by the OIE Code Commission on the basis of relevant scientific comments received from Member countries.

The United States (i.e., USDA/APHIS) intends to review and, where appropriate, comment on all draft chapters and revisions once it receives them from the OIE. USDA/APHIS intends to distribute these drafts to the U.S. livestock and aquaculture industries, veterinary experts in various U.S. academic institutions, and other interested persons for review and comment. Additional information regarding these draft standards may be obtained by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

Generally, if a country has concerns with a particular draft standard, and supports those concerns with sound technical information, the pertinent OIE Code Commission will revise that standard accordingly and present the revised draft for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each Member country is obligated to review and comment on proposed standards, and make decisions regarding the adoption of those standards, strictly on their scientific merits.

Other OIE Topics

Every year at the General Session, at least one technical item is presented. For the May 2008 General Session, the following technical item will be presented:

1. Integrating small farmers in animal health programs.

The information in this notice includes all the information available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the Internet at *http://www.oie.int.* Further, a formal agenda for the next General Session should be available to Member countries by March 2008, and copies will be available to the public once the agenda is published. For the most current information on meeting times, working groups, and/or meeting agendas, including information on official U.S. participation in OIE activities and U.S. positions on standards being considered, contact Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any areas of work under the OIE may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Michael David.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of

the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is under the authority of the Food and Agriculture Organization (FAO), and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations in cooperation with regional plant protection organizations; the Commission on Phytosanitary Measures ((CPM), formerly referred to as the International Commission on Phytosanitary Measures (ICPM)); and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC entered into force after two-thirds of the contracting parties notified the Director General of FAO of their acceptance of the amendment. The U.S. Senate gave its advice and consent to acceptance of the newly revised IPPC on October 18, 2000. The President submitted the official letter of acceptance to the FAO Director General on October 4, 2001.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) program. The steps for developing a standard under the revised IPPC are described below.

Step 1: Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat of the IPPC in a standardized format on a 2-year cycle. Alternatively, the Secretariat can propose a new standard or amendments to existing standards.

Step 2: After review by the Standards Committee and the Strategic Planning and Technical Assistance Working Group, a summary of proposals is submitted by the Secretariat to the CPM. The CPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the CPM.

Step 3: Specifications for the standards identified as priorities by the CPM are drafted by the Secretariat. The draft specifications are submitted to the Standards Committee for approval/amendment and are subsequently made available to members and regional plant protection organizations (RPPOs) for comment (60 days). Comments are submitted in writing to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4: The standard is drafted or revised in accordance with the specifications by a working group designated by the Standards Committee. The resulting draft standard is submitted to the Standards Committee for review.

Step 5: Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPOs for consultation (100 days). Comments are submitted in writing to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as forums for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6: Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the CPM for adoption.

Step 7: The ISPM is established through formal adoption by the CPM according to Rule X of the Rules of Procedure of the CPM.

Step 8: Review of the ISPM is completed by the specified date or such other date as may be agreed upon by the CPM.

Each member country is represented on the CPM by a single delegate. Although experts and advisers may accompany the delegate to meetings of the CPM, only the delegate (or an authorized alternate) may represent each member country in considering a standard up for approval. Parties involved in a vote by the CPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. The United States also has a representative on the Standards Committee. In addition, documents and positions developed by APHIS and NAPPO have been sources of significant input for many of the standards adopted to date. This notice describes each of the IPPC standards currently under consideration or up for adoption. The full text of each standard will be available on the Internet at *http://www.aphis.gov/ppq/pim/standards/.* Interested individuals may review the standards posted on this Web site and submit comments via the Web site.

The next CPM meeting is scheduled for April 7–11, 2008, at FAO Headquarters in Rome, Italy. The Deputy Administrator for APHIS' PPQ program is the U.S. delegate to the CPM. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standards up for adoption. The provisional agenda for the Third Session of the Interim Commission on Phytosanitary Measures is as follows:

1. Opening of the session.
2. Adoption of the agenda.
3. Report by the chairperson.
4. Report by the Secretariat.
5. Standards up for adoption in 2008.
6. Items arising from the Second Session of the CPM (see section below entitled ''New Standard-Setting Initiatives, Including Those in Development'' for details).
7. Work program for harmonization.
8. Other business.
9. Date and venue of the next meeting.
10. Adoption of the report.

IPPC Standards Up for Adoption in 2008

It is expected that the following standards will be sufficiently developed to be considered by the CPM for adoption at its 2008 meeting. The United States, represented by APHIS' Deputy Administrator for PPQ, will participate in the consideration of these standards. The U.S. position on each of these issues will be developed prior to the CPM session and will be based on APHIS' analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Developing a Strategy To Reduce or Replace the Use of Methyl Bromide for Phytosanitary Purposes

This standard provides guidance to national plant protection organizations

(NPPOs) and regional plant protection organizations (RPPOs) in the development of a strategy to reduce or replace the use of methyl bromide as a phytosanitary measure in order to reduce emissions of methyl bromide. The standard outlines areas for action for developing and implementing a national strategy on the use of methyl bromide as a phytosanitary measure.

2. Establishment of Areas of Low Pest Prevalence for Fruit Flies (Tephritidae)

This standard provides guidelines for the establishment and maintenance of areas of low pest prevalence for fruit flies of economic importance (including places and sites of production of low pest prevalence) for use as a risk mitigation measure to facilitate trade of fruits and vegetables. The decision to create a fruit fly area of low pest prevalence (FF–ALPP) for export of a particular host of fruit fly is closely linked to trade opportunities and to economic and operational feasibility.

3. Sampling of Consignments

This standard provides guidance in developing sampling design and determining sampling frequency that may be used as part of the processes used for inspection or for gathering material for testing to ensure compliance with phytosanitary requirements.

4. Classification of Commodities into Phytosanitary Risk Categories

This standard provides guidance on categorizing plant and plant product commodities according to their phytosanitary risk. The categorization is based on the method and level of processing to which a commodity has been subjected and the commodity's intended uses. The standard also provides guidance for determining phytosanitary risk management measures for each category, as appropriate.

5. Supplement to ISPM No. 5 (Glossary of phytosanitary terms): Debarked and Bark-Free Wood

This supplement provides practical guidance to NPPOs on differentiating between debarked wood and bark-free wood, where removal of bark is required to reduce the risk of introduction and/or spread of quarantine pests associated with bark. This supplement does not specify the effectiveness or technical justification of removal of bark.

6. Amendments to ISPM No. 5 (Glossary of phytosanitary terms)

A. The following terms and definitions will be proposed for addition to the glossary of phytosanitary terms in ISPM No. 5:

- *Prevalence (of a pest):* Proportion of units in a population of plants, plant products, or other articles that is affected by a pest at a given time, or the level of occurrence of a pest in an area at a given time as expressed by a defined index or a range of values.
- *Tolerance level:* Prevalence of a pest that is a threshold for action to control that pest or to prevent its spread or introduction.

B. The following term and definition will be proposed to be changed as follows:

- *Beneficial organisms:* Any organism directly or indirectly advantageous to plants or plant products, including biological control agents and sterile insects.

C. The following terms will be proposed for deletion:

- Authority
- Biological pesticide (biopesticide)
- Classical biological control, introduction (of a biological control agent), and establishment (of a biological control agent)
- Exotic
- Import permit (of a biological control agent)
- Micro-organism
- Specificity

New Standard-Setting Initiatives, Including Those in Development

A number of expert working group meetings or other technical consultations will take place during 2007 and 2008 on the topics listed below. These standard-setting initiatives were not completed before April 2007 and, therefore, will not be ready for adoption at the 2008 CPM session. Nonetheless, APHIS intends to participate actively and fully in each of these working groups. The U.S. position on each of the topics to be addressed by these various working groups will be developed prior to these working group meetings and will be based on APHIS' technical analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Supplement to ISPM No. 11 (Pest risk analysis for quarantine pests including analysis of environmental risks and living modified organisms): Appropriate Level of Protection

The appropriate level of protection is a concept established beyond the scope and legal competence of the IPPC. Therefore, these guidelines focus primarily on promoting consistency in the development and use of phytosanitary measures.

2. Draft Supplement to ISPM No. 5 (Glossary of phytosanitary terms): Guidelines for the Interpretation and Application of the Term ''Not Widely Distributed'' in Relation to Quarantine Pests

This supplement provides guidance on the interpretation and application of the term ''not widely distributed'' in the context of the decision on whether a pest qualifies as a quarantine pest.

3. Systems Approach(es) for Pest Risk Management of Fruit Flies (Tephritidae)

This standard provides guidelines for the establishment and use of systems approach(es) as an option for pest risk management of fruit flies to facilitate trade of fruits. The standard applies to fruit flies (Tephritidae) of economic importance.

4. Revisions of ISPMs No. 7 and 12

Currently there are two ISPMs dealing with export: ISPM No. 7 (Export certification system) and ISPM No. 12 (Guidelines for phytosanitary certificates). These standards briefly describe the procedure to follow in case of re-export and transit shipments requiring phytosanitary certification. As international trade has expanded and means of conveyance have diversified, the need has arisen to provide clearer guidance on re-export and transit phytosanitary certification. In addition, concepts in these standards will be made consistent with other existing standards.

For more detailed information on the above topics, which will be addressed by various working groups established by the CPM, contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

APHIS posts draft standards on the Internet (*http://www.aphis.usda.gov/ppq/pim/standards/*) as they become available and provides information on the due dates for comments. Additional information on IPPC standards is available on the FAO's Web site at *http://www.ippc.int/IPP/En/default.htm*. For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Ms. Aliaga.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the

IPPC, coordinates the efforts among Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered. Proposals drawn up by the individual panels are circulated for review to Government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various Government agencies for consideration and comment. The draft standards are posted on the Internet at *http://www.aphis.usda.gov/ppq/pim/standards/*; interested persons may submit comments via that Web site. Once revisions are made, the proposal is sent to the NAPPO working group and the NAPPO standards panel for technical reviews, and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 22–26, 2007, in St. John's Newfoundland-Labrador, Canada. The NAPPO Executive Committee meeting will take place on October 22, 2007, and a special session will be held on October 23, 2007, to solicit comment from industry groups so that suggestions can be incorporated into the NAPPO work plan for the 2008 NAPPO year. The Deputy Administrator for PPQ is a member of the NAPPO Executive Committee. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption or any proposals to develop new standards.

The work plan for 2007 was established after the October 2006 Annual Meeting in Fort McDowell, Arizona. The Deputy Administrator for PPQ participated in establishing this NAPPO work plan (see panel assignments below). Below is a summary of current panel assignments as they relate to the ongoing development of NAPPO standards. The United States(i.e., USDA/APHIS) intends to participate actively and fully in the work of each of these panels. The U.S. position on each topic will be guided and informed by the best scientific information available on each of these topics. For each of the following panels, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO panel topics, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO homepage at *http://www.nappo.org* or by contacting Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

1. Accreditation Panel

The panel will conduct an in-depth audit of the Canadian system to comply with RSPM No. 8 (The Accreditation of Individuals to Sign Federal Phytosanitary Certificates).

2. Biological Control Panel

The panel will complete a NAPPO discussion paper on taxonomic expertise in biological control activities. The panel will review RSPM No. 7 (Guidelines for Petition for Release of Exotic Phytophagous Agents for the Biological Control of Weeds), and RSPM No. 12 (Guidelines for Petition for Release of Exotic Entomophagous Agents for the Biological Control of Pests), to determine whether they should be archived, in light of revisions to ISPM No. 3 (Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms).

3. Biotechnology Panel

This panel will continue to develop a NAPPO standard for the importation of transgenic plants into NAPPO member countries. The standard review of products of biotechnology focuses on the assessment of the potential for the new trait to increase the risk the plant could pose to other plants in agriculture or the broader environment.

4. Citrus Panel

The panel will review the citrus production programs in States where Mexico and the United States share borders for compliance with RSPM No. 16 (Guidelines for the Importation of Citrus Propagative Material into a NAPPO Member Country), and RSPM No. 24 (Integrated Pest Risk Management Measures for the Importation of Plants for Planting into NAPPO Member Countries), with the goal of developing regionally harmonized nursery certification programs for citrus nursery stock. The panel is also charged with exchanging technical information on emerging citrus pests such as citrus greening.

5. Electronic Phytosanitary Certification Panel

This panel will conduct a pilot project for electronic phytosanitary certification within the NAPPO region.

6. Forestry Panel

This panel will draft a NAPPO standard on preventing the entry of asian gypsy moth into North America. It will continue to provide leadership in the design and delivery of NAPPO workshops on the implementation of ISPM No. 15 (Guidelines for regulating wood packaging material in international trade). The panel will investigate and report on the technical impacts of *Phytophthora ramorum* on conifer forests, and analyze collected data and report on the incidence of pests associated with bark on wood packaging that has been marked according to ISPM No. 15.

In addition, the panel will provide technical support to the IPPC (International Forest Quarantine Research Group and Technical Panel on Forest Quarantine), particularly with regard to the risks associated with bark on treated wood packaging.

7. Fruit Panel

The panel will develop a NAPPO standard on accreditation of laboratories for diagnostics of fruit pests and develop a NAPPO standard on equivalence in the application of detection and identification tools for fruit pests, including guidelines for quality control.

8. Fruit Tree Panel

The panel will finalize the bacteria and fungi appendices for RSPM No. 25 (Guidelines for International Movement of Pome and Stone Fruit Trees into a NAPPO Member Country), and will begin to work on the insect and nematode appendices. The panel will update the appendix on viruses in RSPM No. 25 with additions or changes, host and literature references.

9. Grains Panel

This panel, in collaboration with the Pest Risk Analysis Panel, will review the latest scientific information on Karnal bunt, *Tilletia indica*. The panel will develop recommended actions to harmonize the management of soybean rust (*Phakopsora pachyrizi*) in NAPPO member countries. In addition, the panel will develop a NAPPO strategic plan to prepare for the possible arrival of new races of black stem rust of wheat, such as *Puccinia graminis* f.sp. *tritici, race TTKS*, based on the pest risk assessment prepared by the NAPPO Pest Risk Analysis Panel.

10. Grapevine Panel

The panel will complete the appendices of significant arthropod and nematode pests of grapevines for RSPM No. 15 (Guidelines for the Importation of Grapevines into a NAPPO Member Country). The panel will begin to work on the bacteria and fungi appendices for RSPM No. 15 and update the appendix on viruses.

11. Invasive Species Panel

This panel will define the scope of invasive alien species in the context of NAPPO and will begin development of a NAPPO standard for evaluating the potential invasiveness of plants for planting. The panel will also begin development of a NAPPO standard for identifying and prioritizing pest introduction pathways (pathway analysis). In addition, the panel will coordinate and clarify NAPPO's invasive species efforts with those of the North American Commission for Environmental Cooperation and other North American international treaties, conventions, and trilateral activities.

This year, the panel will coordinate with the NAPPO Working Group to develop the agenda and speakers for the Invasive Species Symposium at the October 2007 NAPPO Annual Meeting.

12. Pest Risk Analysis Panel

The panel will prepare a NAPPO pest risk analysis on black stem rust, UG 99, *Puccinia graminis*, for the NAPPO Grains panel and, in collaboration with this panel, will review the latest scientific information on Karnal bunt, *Tilletia indica* Mitra.

13. Phytosanitary Alert System Panel

This panel continuously posts timely pest alerts on the NAPPO web site, reviews automated data surveillance technologies to streamline data mining processes, and determines ways to improve official pest reporting through the Phytosanitary Alert System.

14. Plants for Planting

The panel will report on progress in achieving the implementation plan for RSPM No. 24 (Integrated Pest Risk Management Measures for the Importation of Plants for Planting in NAPPO Member Countries). In addition, the panel will clarify the meaning of the term ''origin'' in ISPM No. 12 (Guidelines for phytosanitary certificates), in particular for re-exports of seeds.

15. Potato Panel

The panel will finalize protocols for the detection and identification of *Clavibacter michiganensis* subsp. *sepedonicus* as Appendix 6 to the NAPPO Potato Standard, RSPM No. 3, and finalize the protocols for the isolation and identification of regulated nematodes of potato as Appendix 7 to the Potato Standard. The panel will determine the accuracy of Appendix 5, Per-Shipment Testing for PVYn, based on the current knowledge of the North American PVY complex, and will identify the requirements for recognition of pest freedom for golden nematode *Globodera rostochiensis* and the potato cyst nematode *Globodera pallida*, based on International Standards for Phytosanitary Measures.

16. Standards Panel

The panel will coordinate and review new and amended NAPPO standards and implementation plans; provide updates on NAPPO standards and ISPMs for the NAPPO Newsletter; exchange and discuss comments on draft ISPMs within NAPPO and with other RPPOs to build consensus on draft ISPMs and other issues related to the IPPC; organize conference calls and prepare NAPPO discussion documents where possible to confirm positions on key issues for North American representatives to FAO expert working groups; update the NAPPO Glossary, taking into account new definitions and standards; and review NAPPO position papers and policy documents to verify current relevance.

The PPQ Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards, including the work described above, once they are completed and ready for such consideration.

The information in this notice includes all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that may become available following publication of this notice, check the NAPPO Web site on the Internet at *http://www.nappo.org* or contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Aliaga. Those wishing to provide comments on any of the topics being addressed by any of the NAPPO panels may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Aliaga.

Done in Washington, DC, this 19th day of September 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–18877 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Warehouse Rates for Peanuts Pledged as Collateral for a Marketing Assistance Loan

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces to the warehouse operators operating under a Commodity Credit Corporation (CCC) Peanut Storage Agreement on the uniform rates that CCC will pay for storage, handling, and other associated costs for 2007 crop of peanuts.

DATES: *Effective Date:* September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Overbo, Deputy Director, Warehouse and Inventory Division, Farm Service Agency, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553; telephone: (202) 720–4647; email: *mark.overbo@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: The marketing assistance loan program for peanuts is authorized by the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) (2002 Farm Bill). Section 1307(a)(6) of the 2002 Farm Bill (7 U.S.C. 7957(a)(6)) requires CCC to pay storage, handling, and other associated costs for the 2002 through 2006 crops of peanuts that are pledged as collateral for marketing assistance loans. This authority terminates beginning with the 2007 crop of peanuts.

CCC paid storage, handling, and other associated costs for the 2002 through 2006 crop years for peanuts that were pledged as loan collateral and stored in a warehouse with an approved Peanut Storage Agreement. The statute does not authorize CCC to pay storage, handling, and other associated costs when 2007-crop peanuts are pledged as collateral for a loan. However, rates for storage and handling (in-elevation and load-out) must be established in the event that peanuts pledged as loan collateral are

forfeited to CCC. For peanuts forfeited to CCC, CCC will be responsible for storage charges beginning on the day following the loan maturity date. While CCC is not responsible for storage charges incurred on or before the loan maturity date, CCC will pay to warehouse operators any amount by which the loan amount was reduced because the producer failed to pay storage or make arrangements for storage charges through the loan maturity date. Additionally, while CCC is not responsible for in-elevation charges incurred on or before the loan maturity date, CCC will pay to warehouse operators the CCC-approved in-elevation charge and collect the amount from the producer after loan forfeiture. CCC is not responsible for load out charges or other services such as inspections or grading, unless delivery is directed by CCC or such services are requested by CCC.

Section 4(h) of the CCC Charter Act (15 U.S.C. 714–714p) allows CCC to contract for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control. The terms and conditions of the CCC Peanut Storage Agreement are based on the authority provided by the CCC Charter Act.

CCC announces the following uniform rates that CCC will pay for storage, handling, and other associated costs for 2007-crop peanuts to warehouse operators with a CCC Peanut Storage Agreement:

In-Elevation

CCC will pay $8.00 per ton in-elevation charges to the receiving warehouse, only in cases where CCC directs delivery of CCC-owned peanuts from one warehouse to another location. In cases where the producer did not prepay the in-elevation charges, CCC will pay the CCC-approved in-elevation charge at a rate of $8.00 per ton to the warehouse operator and collect the amount from the producer after loan forfeiture.

Storage

Storage amounts may be earned at the rate of $.089 per ton per day beginning on the day following the loan maturity date, based on a monthly storage rate of $2.71 per ton. CCC will also use this rate to pay the storage amount by which the loan amount was reduced, when producers fail to pay storage or make arrangements for storage charges through the loan maturity date.

Load-Out

CCC will pay a load-out rate of $8.00 per ton which includes all items associated with loading out CCC-owned peanuts, such as weighing and placing peanuts aboard railcars or trucks. CCC will pay load-out charges only when this service is ordered by CCC.

Grading and Inspection

CCC will pay the amount of grading and inspection fees as determined by the Federal-State Inspection Service, Agriculture Marketing Service, for CCC-owned peanuts, only when CCC requests such service.

Other Associated Costs

CCC will negotiate rates on a case-by-case basis for other services for CCC-owned peanuts, such as cleaning, drying, or fumigation, when CCC requests such service.

Signed at Washington, DC, September 20, 2007.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E7–18856 Filed 9–24–07; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Privileges; Mohammad Fazeli; In the Matter of: Mohammad Fazeli, 1439 Saltair Fazeli Ave., Los Angeles, CA 90025; and With an Address at: 112 West 9th Street, Suite 1115, Los Angeles, CA 90015

Order Denying Export Privileges

A. Denial of Export Privileges of Mohammad Fazeli

On August 7, 2006, in the U.S. District Court in the Central District of California, following a plea of guilty, Mohammad Fazeli (''Fazeli'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701–1705 (2000)) (''IEEPA''). Fazeli pled guilty to willfully attempting to export 103 Honeywell pressure sensors to Iran, through the United Arab Emirates, without the license required from the United States Department of Treasury, Office of Foreign Assets Control.

Fazeli was sentenced to one year and a day of imprisonment followed by two years of supervised release and fined $3,000. He was released from prison on July 9, 2007.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–2420 (2000)) (''Act'') [1] and § 766.25 of the Export Administration Regulation [2] (''Regulations'') provide, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of * * * any regulation, license or order issued under the International Emergency Economic Powers Act,'' for a period not to exceed 10 years from the date of conviction. 15 CFR 766.25(a) and (d). In addition, § 750.8 of the Regulations states that Bureau of Industry's (''BIS'') Office of Exporter Services may revoke any BIS licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Fazeli's conviction for violating the IEEPA, and have provided notice and an opportunity for Fazeli to make a written submission to the Bureau of Industry and Security as provided in § 766.25 of the Regulations. Having received no submission from Fazeli, I, following consultations with the Office of Export Enforcement, including the Director, Office of Export Enforcement, have decided to deny Fazeli's export privileges under the Regulations for a period of six years from the date of Fazeli's conviction.

Accordingly, *it is hereby ordered:*

I. Until August 7, 2012, Mohammad Fazeli, 1439 Saltair Fazeli Ave., Los Angeles, CA 90025, and with an address at: 112 West 9th Street, Suite 1115, Los Angeles, CA 90015 and when acting for or on behalf of Fazeli, his representatives, assigns, agents, or employees, (collectively referred to hereinafter as the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding,

[1] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 15, 2007 (72 FR 46137, Aug. 16, 2007), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA'').

[2] The Regulations are currently codified at 15 CFR Parts 730–774 (2007).

transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in § 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Mohammad Fazeli by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provision of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until August 7, 2012.

VI. In accordance with Part 756 of the Regulations, Fazeli may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Fazeli. This Order shall be published in the **Federal Register**.

Dated: September 12, 2007.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 07–4717 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

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

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke one antidumping duty order and one countervailing duty order in part.

EFFECTIVE DATE: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (2007), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received timely requests to revoke in part the antidumping duty order on Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea with respect to one exporter and the countervailing duty order on Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea with respect to two exporters.

Initiation of Reviews:

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2008.

Antidumping Duty Proceedings	Period to be Reviewed
GERMANY: Corrosion–Resistant Carbon Steel Flat Products.	
A–428–815	8/1/06 - 7/31/07
ThyssenKrupp Steel AG.	
ITALY: Granular Polytetrafluoroethylene (PTFE) Resin.	
A–475–703	8/1/06 - 7/31/07
Solvay Solexis, S.p.A..	
MALAYSIA: Polyethylene Retail Carrier Bags.	
A–557–813	8/1/06 - 7/31/07
Europlastics Malaysia Sdn. Bhd..	
Eplastics Procurement Center Sdn. Bhd..	
King Pac Industrial Co., Ltd..	
Zhin Hin Plastic Manufacturer Sdn. Bhd. (aka Chin Hin Plastic Manufacturer Sdn. Bhd.).	
REPUBLIC OF KOREA:Corrosion–Resistant Carbon Steel Flat Products.	
A–580–816	8/1/06 - 7/31/07
Dongbu Steel Co., Ltd..	

Antidumping Duty Proceedings	Period to be Reviewed
Dongkuk Industries Co., Ltd..	
Haewon MSC Co., Ltd..	
Hyundai HYSCO.	
LG Chem, Ltd..	
Pohang Iron and Steel Co., Ltd./Pohang Coated Steel Co., Ltd..	
Union Steel Manufacturing Co., Ltd..	
SOCIALIST REPUBLIC OF VIETNAM: Frozen Fish Fillets[1].	
A–552–801	8/1/06 - 7/31/07
An Giang Agriculture and Food Import Export Company (aka Afiex, A. Seafood, Afiex Seafood, or An Giang Afiex Company).	
An Giang Fisheries Import and Export Joint Stock Company (aka Agifish or AnGiang Fisheries Import and Export).	
An Xuyen Company Ltd..	
Anvifish Co., Ltd..	
Basa Co., Ltd..	
Can Tho Agricultural and Animal Products Import Export Company (aka Cataco).	
Cantho Seafood Export (aka CASEAFOOD).	
Can Tho Animal Fishery Products Processing Export Enterprise (aka Cafatex).	
Cantho Import Export Seafood Joint Stock Company (aka CASEAMEX).	
CL–Fish Co., Ltd. (aka Cuu Long Fish Company).	
Da Nang Seaproducts Import–Export Corporation (aka Da Nang or Seaprodex Danang).	
Duyen Hai Foodstuffs Processing Factory (aka COSEAFEX).	
East Sea Seafoods Joint Venture Co., Ltd..	
Gepimex 404 Company.	
Hai Nam Co., Ltd..	
Hai Vuong Co., Ltd..	
Hoan An Fishery Co., Ltd..	
Hung Vuong Co., Ltd..	
Kim Anh Co., Ltd..	
Mekongfish Company (aka Mekonimex or Mekong Fisheries Joint Stock Company).	
Nam Viet Company Limited (aka NAVICO).	
Ngoc Thai Company, Ltd..	
QVD Food Company, Ltd..	
QVD Dong Thap Food Co., Ltd..	
Southern Fishery Industries Company, Ltd. (aka South Vina).	
Thuan Hung Co., Ltd. (aka THUFICO).	
Viet Hai Seafood Company Limited (aka Vietnam Fish–One Co., Ltd.).	
Vinh Hoan Corporation.	
Vinh Hoan Company, Ltd..	
Vinh Long Import–Export Company (aka Imex Cuu Long).	
Vinh Quang Fisheries Corporation.	
Lian Heng Trading Co., Ltd..	
THAILAND: Polyethylene Retail Carrier Bags.	
A–549–821	8/1/06- 7/31/07
King Pac Industrial Co., Ltd..	
King Pak Ind. Co., Ltd..	
Kor Ratthanakit Co., Ltd..	
Master Packaging Co., Ltd..	
Naraipak Co., Ltd..	
Polyplast (Thailand) Co., Ltd..	
THE PEOPLE'S REPUBLIC OF CHINA: Floor–Standing Metal–Top Ironing Tables[2].	
A–570–888	8/1/06 - 7/31/07
Forever Holdings Limited.	
Since Hardware (Guangzhou) Co., Ltd..	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags[3].	
A–570–886	8/1/06 - 7/31/07
Crown Polyethylene Products (Int'l) Ltd..	
Dongguan Nozawa Plastics Co., Ltd. and United Power Packaging, Ltd. (collectively "Nozawa").	
Dongguan Qiatou Samson Plastic Manufactory Co..	
Everfaith International (Shanghai) Ltd..	
Rally Plastics Co., Ltd..	
Sea Lake Polyethylene Enterprises, Ltd..	
Shanghai Glopack, Inc..	
Shanghai Hua Yue Packaging Products.	
Shanghai Yafu Plastics Industry Co., Ltd..	
Countervailing Duty Proceedings.	
REPUBLIC OF KOREA: Corrosion–Resistant Carbon Steel Flat Products.	
C–580–818	1/1/06 - 12/31/06
Dongbu Steel Co., Ltd..	
Pohang Iron & Steel Co., Ltd..	
REPUBLIC OF KOREA: Dynamic Random Access Memory Semiconductors.	
C–580–851	1/1/06 - 12/31/06
Hynix Semiconductor, Inc. (formerly Hyundai Electronics Industries Co., Ltd.).	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils.	

Antidumping Duty Proceedings	Period to be Reviewed
C–580–835 ..... Dai Yang Metal Co., Ltd..	1/1/06 - 12/31/06
Suspension Agreements.	
None..	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of frozen fish fillets from the Socialist Republic of Vietnam who have not qualified for a separate rate are deemed to be covered by this review as part of the single Vietnam entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of floor-standing metal-top ironing tables from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[3] If one of the above named companies does not qualify for a separate rate, all other exporters of polyethylene retail carrier bags from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistant with *FAG Italia v.(roman) United States*, 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 19, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–18857 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results of the 2006 Semiannual New Shipper Review

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

SUMMARY: The U.S. Department of Commerce (''the Department'') is conducting a semiannual new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') in response to a request from Longkou Qizheng Auto Parts Co., Ltd. (''Qizheng''). The period of review (''POR'') is April 1 through October 31, 2006. We have preliminarily determined that Qizheng's sale is a *bona fide* transaction. In addition, we have preliminarily determined that Qizheng made its sale during the POR above normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on the appropriate entry of subject merchandise during the POR if the assessment rate is above *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Blanche Ziv, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5047 or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on brake rotors from the PRC on April 17, 1997. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997) (''*Order*''). On October 31, 2006, the Department received a timely request from Qizheng, in accordance with 19 CFR 351.214(c), to conduct a semiannual new shipper review of the antidumping duty order on brake rotors from the PRC. This request was rejected by the Department on November 6, 2006. Qizheng resubmitted its request for review on November 6, 2006. On November 30, 2006, the Department found that the request for review with respect to Qizheng met all of the regulatory requirements set forth in 19 CFR 351.214(b) and initiated a semiannual new shipper review of the antidumping duty order on brake rotors from the PRC for the April 1 through September 30, 2006, period. *See Brake Rotors from the People's Republic of China: Initiation of New Shipper Review*, 71 FR 69203 (November 30, 2006). On November 30, 2006, the Department issued the initial questionnaire to Qizheng. On December 1, 2006, the Department issued a memorandum identifying five countries as being at a level of economic development comparable to that of the PRC for the specified period of review: India, Sri Lanka, Egypt, Indonesia, and the Philippines. *See* Attachment I of the Memorandum from Ron Lorentzen, Director, Office of Policy, to Wendy Frankel, Director, China/NME Group, Office 8, regarding, ''2006 Semi–Annual Antidumping Duty New Shipper Review of Brake Rotors from the People's Republic of China: Request for a List of Surrogate Countries,'' (''*Surrogate Country Memo*''). On December 8, 2006, we invited interested parties to provide information on surrogate values for the factors of production used in the production of brake rotors. On January 19, 2007, the petitioner submitted publicly available

surrogate value information.[1] On March 8, 2007, the Department expanded the POR for this semiannual new shipper review through October 31, 2006, to capture the entry corresponding to Qizheng's sale to the United States. *See* Memorandum to Wendy J. Frankel, Office Director, through Blanche Ziv, Program Manager, from Jennifer Moats, Analyst, regarding, ''Expansion of the Period of Review,'' dated March 8, 2007. Therefore, the POR for the semiannual new shipper review of Qizheng is April 1 through October 31, 2006. On March 13, 2007, the Department selected India as the most appropriate surrogate country for the purposes of this review. *See* Memorandum to the file through Wendy J. Frankel, Office Director, and Blanche Ziv, Program Manager, from Jennifer Moats, Analyst, regarding, ''Surrogate Country Selection,'' dated March 13, 2007 (''*Surrogate Country Selection Memo*''). On March 21 and April 26, 2007, the Department issued supplemental questionnaires to Qizheng. On May 11, 2007, the Department published a notice extending the deadline for the preliminary results to September 18, 2007. *See Brake Rotors from the People's Republic of China: Notice of Extension of the Preliminary Results of Antidumping Duty New Shipper Review*, 72 FR 26781 (May 11, 2007).

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).[2]

Brake rotors are currently classifiable under subheading 8708.39.50.30 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'').[3] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

As provided in section 782(i)(3) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.307(b)(iv), the Department conducted verification of Qizheng's questionnaire responses at the company's facilities in Longkou, Shandong, PRC, from June 6 through 8, 2007. We used standard verification procedures, including on–site inspection of the production facility and examination of the relevant sale and financial records. Our verification results are outlined in the verification report, the public version of which is on file in the Central Records Unit (''CRU'') located in room B–099 of the Main Commerce Building. *See* Memorandum to the File through Wendy Frankel, Office Director and Blanche Ziv, Program Manager from Jennifer Moats, Senior International Trade Analyst, regarding, ''Verification of the Sales and Factors Response of Longkou Qizheng Auto Part Co., Ltd. in the 2006 Semiannual Antidumping Duty New Shipper Review on Brake Rotors from the People's Republic of China,'' dated August 22, 2007 (''*Qizheng Verification Report*'').

Bona Fide Sale Analysis

For the reasons stated below, we preliminarily find that Qizheng's reported U.S. sale during the POR appears to be *bona fide* based on the totality of the facts on the record. In evaluating whether or not a single sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, inter alia, such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's–length basis. *See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005), citing *Am. Silicon Techs. v. United States*, 110 F. Supp. 2d 992, 995 (CIT 2000). Accordingly, the Department considers a number of factors in its *bona fides* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005), citing *Fresh Garlic from the PRC: Final Results of Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd.

We preliminarily find that Qizheng's reported U.S. sale during the POR appears to be *bona fide* based on the totality of the circumstances on the record. Specifically, we find that: (1) The price of Qizheng's sale was within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) the quantity of Qizheng's sale was within the range of quantities of other entries of subject merchandise from the PRC into the United States during the POR; (3) the expenses arising from the transaction were not unusual; and (4) Qizheng's sale was made between unaffiliated parties at arm's length. *See* Memorandum to Wendy Frankel, Office Director, through Blanche Ziv, Program Manager, from Jennifer Moats, Senior International Trade Analyst, regarding, ''Semiannual Antidumping Duty New Shipper Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: *Bona Fide* Analysis of Longkou Qizheng Auto Parts Co., Ltd.,'' dated September 10, 2007 (''*Bona Fides Memo*'').

[1] The petitioner in this proceeding is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] On January 17, 2007, the Department determined the brake rotors produced by Federal-Mogul and certified by the Ford Motor Company to be excluded from the scope of the order. \ Memorandum from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, through Wendy J. Frankel, Office Director, AD/CVD Operations, Office 8, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled, ''Scope Ruling of the Antidumping Duty Order on Brake Rotors from the People's Republic of China; Federal-Mogul Corporation,'' dated January 17, 2007.

[3] As of January 1, 2005, the HTSUS classification for brake rotors (discs) changed from 8708.39.50.10 to 8708.39.50.30. As of January 1, 2007, the HTSUS classification for brake rotors (discs) changed from 8708.39.50.30 to 8708.30.50.30. *See HTSUS (2005)*, available at **http://www.usitc.gov**.

As discussed above, we found no evidence that the sale in question for Qizheng was not a *bona fide* sale. See *Bona Fides Memo*. Based on our examination into the *bona fide* nature of the sale, the questionnaire responses submitted by Qizheng, and our verification thereof, we preliminarily determine that Qizheng has met the requirements to qualify as a new shipper during the POR. We have determined that Qizheng made its first sale and shipment of subject merchandise to the United States during the POR, and that it was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States during the POR. Therefore, for purposes of these preliminary results of review, pursuant to 19 CFR 351.214(b)(2), we are treating Qizheng's sale of brake rotors to the United States as an appropriate transaction for a new shipper review.

Non–Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as an non–market economy (''NME'') country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 1006). None of the parties in this review have contested such treatment. Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production (''FOP''), to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, the Philippines, Indonesia, Egypt, and Sri Lanka are countries comparable to the PRC in terms of economic development. *See Surrogate Country Selection Memo*. Customarily, we select an appropriate surrogate country from the Surrogate Country Memo based on the availability and reliability of the data from countries that are significant producers of comparable merchandise. In this case, based on publicly available information placed on the record (*e.g.*, world production data), we found that India is a significant producer of brake rotors. *See Surrogate Country Selection Memo*. Accordingly, we selected India as the primary surrogate country for purposes of valuing the factors of production in the calculation of NV because it meets the Department's criteria for surrogate–country selection. *See Surrogate Country Selection Memo*. We relied on public information whenever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in a new shipper review, interested parties may submit publicly available information to value the FOP within 20 days after the date of publication of these preliminary results.

Separate Rate

In proceedings involving NME countries (*see* section 771(18) of the Act), the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (''*de jure*'') and in fact (''*de facto*''), with respect to its export activities. For this new shipper review, Qizheng submitted information in support of its claim for a company–specific rate. Moreover, we examined Qizheng's claims for a separate rate at verification.

Accordingly, we have considered whether Qizheng is independent from government control, and therefore eligible for a separate rate. To establish whether a firm is sufficiently independent from government control over its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (Comment 1) (May 6, 1991) (''*Sparklers*''), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–7 (May 2, 1994) (''*Silicon Carbide*''). In accordance with the separate–rate criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. Qizheng provided complete separate–rate information in its responses to our original questionnaire, supplemental questionnaires, and as examined at verification as discussed below.

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589 (Comment 1).

Qizheng placed a number of documents on the record to demonstrate absence of de jure control, including the ''Company Law of the People's Republic of China'' (October 27, 2005), the ''Foreign Trade Law of the People's Republic of China'' (May 12, 1994), and ''Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations'' (July 1991). *See* Exhibits A–4, A–5, and A–6 of Qizheng's, Section A submission, dated January 16, 2007, (''*Section A response*''). Qizheng also submitted a copy of its business license in Exhibit A–7 of its *Section A response* that was issued by the local office of the State Administration of Industry and Commerce (''SAIC'') in Longkou City, Shandong Province, China. Qizheng stated that its business license is to authorize the enterprise identified on the license to engage in the activities listed on the license. The enterprise is identified on the license by the enumeration of: (1) Its legal name; (2) its legal address; (3) the name of its legal representative; (4) its registered capital; (5) the nature of the enterprise; and (6) the scope of the enterprise's business. Qizheng also stated that its business license allows an enterprise to enter into contracts and conduct business activities in accordance with its terms and no other company can use the business license that it uses. According to Qizheng, there are no other limitations or entitlements posed by the business license. We examined these statements and found no discrepancies at verification. *See Qizheng Verification Report* at pages 5 - 9.

We have reviewed Article 11 of Chapter II of the *Foreign Trade Law*, which states, ''foreign trade dealers shall enjoy full autonomy in their business operation and be responsible for their own profits and losses in accordance with the law.'' As in prior cases, we have analyzed such PRC laws and found that they establish an absence of *de jure* control. *See, e.g., Pure Magnesium from the People's Republic*

of China: Final Results of Antidumping Duty New Shipper Review, 63 FR 3085, 3086 (January 21, 1998), and *Preliminary Results of Antidumping Duty New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695, 30696 (June 7, 2001), unchanged in *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 45006 (August 27, 2001). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Qizheng.

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether a respondent is, in fact, subject to a degree of government control that would preclude the Department from assigning it a separate rate.

The respondent has asserted the following: (1) It is a privately owned sino–foreign joint venture company; (2) there is no government participation in its setting of export prices; (3) its general manager has the authority to sign export contracts; (4) the board of directors appointed the general manager, who selected the other managers, and Qizheng informs SAIC of the changes to update its business license; (5) there are no restrictions on the use of its export revenue; and (6) the shareholders decide how profits will be used. *See Section A response* at pages A–2 through A–9; *see also Qizheng Verification Report* at pages 5 - 9. We have examined the documentation provided and find that it demonstrates that Qizheng's pricing is not subject to *de facto* control. Therefore, we preliminarily determine that there is an absence of *de facto* control over the export activities of Qizheng.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over Qizheng's export activities, we preliminarily determine that Qizheng has met the criteria for the application of a separate rate.

Fair Value Comparisons

To determine whether Qizheng's sale of brake rotors to the United States was made at a price below NV, we compared its U.S. price to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, pursuant to section 773 of the Act.

Export Price

For Qizheng, we based U.S. price on export price (''EP'') in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (''CEP'') was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from Qizheng to the first unaffiliated customer in the United States. We deducted foreign inland freight, foreign brokerage and handling expenses, international freight, and marine insurance from the starting price (''gross unit price''), in accordance with section 772(c) of the Act.

Because foreign inland freight and foreign brokerage and handling expenses were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factor Valuations'' section below for further discussion). For expenses provided by a market economy provider and paid for in market economy currency (*i.e.*, international freight and marine insurance), we used the actual price paid for the input, pursuant to 19 CFR 351.408(c)(1). *See also Lasko Metal Products v.(roman) United States*, 43 F3d 1442, 1445–46 (Fed. Cir. 1994).

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department will base NV on the FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies.

Factor Valuations

In accordance with section 773(c)(1) of the Act, we calculated NV based on the FOPs reported by Qizheng. FOPs include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. We used FOPs reported by Qizheng for materials, energy, labor, and packing. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our standard practice. *See, e.g., Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Certain Preserved Mushrooms from China Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

When we used publicly available import data from the Ministry of Commerce of India (''Indian Import Statistics'') for April through October 2006 to value inputs sourced domestically by PRC suppliers, we added to the Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory. *See Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997) (''*Sigma*''). In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from NME countries and countries that we have reason to believe or suspect may be subsidized (*i.e.*, Indonesia, South Korea, and Thailand). We have found in other proceedings that these countries maintain broadly available, non–industry-specific subsidies and therefore, there is reason to believe or suspect all exports to all export markets from these countries may be subsidized. *See e.g., Certain Helical Spring Lock Washers From The People's Republic of China; Final Results of Antidumping Administrative Review*, 61 FR 66255, 66256 (Comment 1) (December 17, 1996). Finally, we excluded imports that were labeled as originating from an ''unspecified'' country from the average value, because we could not be certain that they were not from either an NME or a country with general export subsidies.

For a complete discussion of the import data that we excluded from our calculation of surrogate values, *see* ''Memorandum to the File: 2006 Semiannual New Shipper Review of Brake Rotors from the PRC: Factor Valuation for the Preliminary Results,'' dated concurrently with this notice (''*Factor Valuation Memo*''). This memorandum is on file in the CRU.

Where we could not obtain publicly available information contemporaneous with the POR to value FOPs, we adjusted the surrogate values using the Indian Wholesale Price Index (''WPI'') as published in the *International Financial Statistics* of the International Monetary Fund available at http://ifs.apdi.net/imf, for those surrogate values in Indian rupees. *See Factor Valuation Memo* at Exhibit 2. We made currency conversions, where necessary, pursuant to 19 CFR 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of the sale. We relied on the daily exchanges rates posted on the Import Administration Web site (http://ia.ita.doc.gov). *See Factor Valuation Memo*.

We valued pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lubricating oil, coke, and firewood with the weighted average of the import volume and value from the Indian Import Statistics. *See id*. at Attachment 3.

We valued electricity using the 2000 electricity price in India reported by the International Energy Agency statistics for *Energy Prices & Taxes*, Third Quarter 2003. We inflated the value for electricity using the POR average WPI for India. *See id*. at Attachment 5.

We valued packing materials including plastic bags, plastic wrap, cartons, tape, plywood, nails, steel strap, and buckles with the weighted average of the import volume and value from the Indian Import Statistics. *See id*. at Attachment 4. In addition, with respect to plastic wrap, we valued this input using ''partial facts available.'' For further information on the valuation of plastic wrap, *see* the ''Facts Available'' section of this notice.

Petitioner submitted financial information for two Indian producers of identical and comparable merchandise: Bosch Chassis Systems India Ltd. (''Bosch'') and Rico Auto Industries Limited (''Rico'') for the year ending March 31, 2006. *See* Petitioner's submission dated January 19, 2007. We preliminarily determine that both Bosch's and Rico's financial statements are the best available information with which to calculate financial ratios because they appear to be complete, are publicly available, and are contemporaneous with the POR. *See Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006), and the accompanying Issues and Decision Memorandum at Comment 1 (where the Department stated that it is the Department's policy to use data from market economy surrogate companies based on the ''specificity, contemporaneity, and quality of the data.'') From these financial statements we were able to determine factory overhead as a percentage of the total raw materials, labor, and energy (''MLE'') costs; selling, general and administrative expenses (''SG&A'') as a percentage of MLE plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See Factors Valuation Memo* for a full discussion of the calculation of these ratios. Where appropriate, we did not include in the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports.

The Department valued truck freight using Indian freight rates published by Indian Freight Exchange available at **http://www.infreight.com**. *See Factor Valuation Memo* at Exhibit 8. This source provided daily rates from six major points of origins to six destinations in India for the period April through October 2005. We averaged the monthly rates for each rate observation to obtain the surrogate value. Because these values were not contemporaneous with the POR of this new shipper review, we adjusted the surrogate value for inflation using the WPI for India.

In calculating the freight rate for truck shipments, we used the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma*, 117 F.3d at 1408. To derive the freight cost for each material input, the Department multiplied the surrogate freight value per kilogram by the Sigma freight. The Department added the freight expense to the cost of the material input to determine gross material costs. Where there were multiple suppliers of an input, we calculated a weighted–average distance. *See Id*. at 9.

The data we used for brokerage and handling expenses are not specific to the subject merchandise; however, there is no information on brokerage and handling expenses specific to brake rotors on the record of this review. Therefore, the Department used two sources to calculate a surrogate value for domestic brokerage expenses: (1) Data from the January 9, 2006, Section C questionnaire response public version from Kejriwal Paper Ltd.[4] (''Kejriwal''); and (2) data from Agro Dutch Industries Ltd. for the period of review February 1, 2004, through January 31, 2005 (*see Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005) (unchanged from *Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 10597 (March 4, 2005)). *See Factor Valuation Memo* at page 6 and Exhibit 7. Because these values were not contemporaneous with the POR of this new shipper review, we adjusted these rates for inflation using the WPI for India as published in the International Monetary Fund's *International Financial Statistics*, and then calculated a simple average of the two companies' brokerage expense data. *See id*. at page 6 and Exhibit 7.

Section 351.408(c)(3) of the Department's regulations requires the use of a regression–based wage rate. Therefore, to value the labor input, the Department used the regression–based wage rate for the PRC published by Import Administration on our website. The source of the wage rate data is the *Yearbook of Labour Statistics 2004*, published by the International Labour Office (''ILO'') (Geneva: 2004), Chapter 5B: Wages in Manufacturing. *See* the Expected Wages of Selected NME Countries (revised January 2007) available at: http://ia.ita.doc.gov/wages. Because the regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we applied the same wage rate to all skill levels and types of labor reported by each respondent.

Application of Facts Available

Section 776(a)(1) of the Act provides that if ''necessary information is not available on the record,'' the Department shall, subject to subsection

[4] Kejriwal was a respondent in the certain lined paper products from India investigation for which the period of investigation was July 1, 2004, to June 30, 2005. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006).

782(d) of the Act, ''use the facts otherwise available'' in reaching the applicable determination. Further, section 782(e) of the Act states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. For these preliminary results, in accordance with sections 776(a)(1) and 782(e) of the Act, we have determined that the use of partial facts available is appropriate for applying a surrogate value to Qizheng's reported plastic wrap usage for the reasons discussed below.

Plastic Wrap

In its original Section D questionnaire response dated January 16, 2007 (''*Section D response*''), Qizheng reported the total volume of ''plastic wrap'' used by the company as one FOP. At verification, the Department found that Qizheng used two types of plastic wrap (*i.e.*, thin plastic wrap and thick plastic wrap) to pack the brake rotors that it shipped to the United States, and that both types of plastic wrap were included in the single variable reported by Qizheng. *See Qizheng Verification Report* at page 23. Company officials stated, and the Department verified, that both types of plastic wrap are accounted for in the one FOP that it reported. The Department normally would use a different surrogate value for thick plastic wrap versus thin plastic wrap. However, because both types of plastic wrap are combined in a single reported FOP, it is not possible at this point to determine the volume of thin versus thick plastic wrap used by the respondent. As a result, it will be necessary to use ''facts available'' in applying the surrogate value for plastic wrap.

We determine that non–adverse partial facts available should be applied in this case for the following reasons: the respondent reported the total volume of plastic wrap (thick and thin); there is no indication that the respondent misrepresented the type of wrap reported; rather, it simply reported its total use of ''plastic wrap≥; the Department is satisfied with the accuracy of Quizheng's FOP data with respect to all other FOPs; the difference in the application of the surrogate value for thin plastic wrap versus thick plastic wrap has an insignificant impact on the FOP calculations.

It is the Department's practice to calculate the dumping margin based on the surrogate value that most accurately represents the materials used. *See* section 773(c)(2) of the Act. Thus, as partial facts available, the Department has calculated a simple average of the two available surrogate values from the Indian Import Statistics for thick and thin plastic wrap, and has applied the resulting average to Qizheng's reported combined usage of thin and thick plastic wrap used to pack the subject merchandise sold to the United States during the POR. *See Factor Valuation Memo* at 4 and Exhibit 4.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margin exists:

Exporter	Margin
Longkou Qizheng Auto Parts Co., Ltd.	0.0%

For details on the calculation of the antidumping duty weighted–average margin for Qizheng, *see* Memorandum to The File through Blanche Ziv, Program Manager, from Jennifer Moats, Senior International Trade Analyst, regarding the ''Analysis for the Preliminary Results of the 2006 Semiannual New Shipper Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Longkou Qizheng Auto Parts Co., Ltd.,'' dated concurrently with this notice. A public version of this memorandum is on file in the CRU.

Schedule for the Final Results of Review

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. *See* 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party must limit its presentation only to arguments raised in its briefs. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the publication date of the preliminary results, unless the time limit is extended.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions directly to CBP 15 days after the date of publication of the final results of this new shipper review. For assessment purposes, we will calculate an importer–specific assessment rate for brake rotors from the PRC on a per–unit basis. Specifically, we will divide the total dumping margin (calculated as the difference between normal value and the export price) for the importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per–unit assessment amount. We will direct CBP to assess antidumping duties based on the resulting per–unit (*i.e.*, per–piece) rate by the weight in kilograms of the entry of the subject merchandise during the POR, if any importer–specific assessment rate calculated in the final results of review is above *de minimis*.

Cash Deposit

The following cash–deposit requirements will be effective upon publication of these final results for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Qizheng, the

cash deposit rate will be zero percent; (2) for subject merchandise exported by Qizheng but not produced by Qizheng, the cash deposit rate will be the PRC–wide rate; (3) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (4) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash–deposit rate will be the PRC–wide rate of 43.32 percent; and (5) for all non–PRC exporters of subject merchandise, the cash–deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to the importer of its responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entry during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: September 18, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–18842 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Notice of Extension of the Final Results of Antidumping Duty New Shipper Review: Honey From the People's Republic of China

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

EFFECTIVE DATE: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Erin C. Begnal or Michael Quigley; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1442 and (202) 482–4047, respectively.

Background

On July 3, 2007, the Department of Commerce (''Department'') published the preliminary results of the new shipper review of the antidumping duty order on honey from the People's Republic of China for the period December 1, 2005, through June 30, 2006. *See Honey from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review,* 72 FR 36422 (July 3, 2007) (''*Preliminary Results*''). The final results of this new shipper review are currently due by September 24, 2007.

Extension of Time Limits for Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated (19 CFR 351.214 (i)(2)).

The Department has determined that the review is extraordinarily complicated, as the Department must consider numerous arguments presented in the respondent's August 2, 2007, case brief and the petitioners' August 8, 2007, rebuttal brief, including issues related to factors of production, completeness, and the application of adverse facts available. Based on the timing of the case, the final results of this new shipper review cannot be completed within the statutory time limit of 90 days. Accordingly, the Department is extending the time limit for the completion of the final results by 30 days from the original September 24, 2007, deadline, to October 24, 2007, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). This notice is published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: September 18, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–18875 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

Dates: September 28, 2007.

Time: 9 a.m. to 3 p.m.

Place: Department of Commerce, 14th and Constitution, NW., Washington, DC 20230, Room 4830.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold a plenary meeting on September 28, 2007, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, in Room 4830. The ETTAC will discuss updated negotiations in the World Trade Organization's environmental goods and services trade liberalization, among other administrative committee priority items. The meeting is open to the public and time will be permitted for public comment.

Written comments concerning ETTAC affairs are welcome anytime before or after the meeting. Minutes will be available within 30 days of this meeting.

The ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. ETTAC operates as an advisory committee to the Secretary of Commerce and the Trade Promotion Coordinating Committee (TPCC). ETTAC was originally chartered in May of 1994. It was most recently rechartered until September 2008.

For further information phone Ellen Bohon, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–0359. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–5225.

Dated: September 18, 2007.

Jerome S. Morse,

Acting Director, Office of Energy and Environmental Industries.

[FR Doc. E7–18852 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC87

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team Klamath Subcommittee (STTKS) will hold a meeting with members of the Yurok and Hoopa Tribes and additional agency personnel from the National Marine Fisheries Service, United States Fish and Wildlife Service, and the California Department of Fish and Game to initiate planning and assignments for developing an overfishing assessment for Klamath River fall Chinook (KRFC). This meeting of the STTKS is open to the public.

DATES: The meeting will be held October 18 and 19, 2007. The meeting will begin at 9 a.m., Thursday, October 18, and continue until 3 p.m., Friday, October 19, 2007.

ADDRESSES: The meeting will be held at the California Department of Fish and Game office, 50 Ericson Ct., Arcata, CA 95521; telephone: (707) 822–5119.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to further develop a report to assess the cause of KRFC failing to meet the 35,000 adult spawner conservation objective, and the implication to the long-term productivity of the stock of not meeting that objective, for three consecutive years.

When a salmon stock managed by the Council fails to meet its conservation objective for three consecutive years an overfishing concern is triggered according to the terms of the Pacific Coast Salmon Plan (Salmon Plan). The Salmon Plan requires the Council to direct its Salmon Technical Team to work with relevant agency and tribal personnel to undertake a review of the status of the stock in question and determine if excessive harvest was responsible for the shortfall, if other factors were involved, and the significance of the stock depression with regard to achieving maximum sustainable yield.

Although non-emergency issues not contained in the meeting agenda may come before the STTKS for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: September 20, 2007.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–18866 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC86

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 139th meeting to consider and take actions on fishery management issues in the Western Pacific Region.

DATES: The 139th Council meeting and public hearings will be held on October 9 - 12, 2007. For specific times and the agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 139th Council meeting and public hearings will be held at the Pagoda Hotel, 1525 Rycroft Drive, Honolulu, Hawaii, 96814; telephone: 808–941–6611.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: In addition to the agenda items listed here, the Council will hear recommendations from other Council advisory groups. Public comment periods will be provided throughout the agenda. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

Schedule and Agenda for Council Standing Committee Meetings

Tuesday, October 9, 2007

Standing Committees

1. *8 a.m. to 9 a.m.*; Executive and Budget Standing Committee
2. *9 a.m. to 11 a.m.*; Pelagics Ecosystem and International Fisheries Standing Committee
3. *11 a.m. to 1 p.m.*; Hawaii Archipelago and Pacific Remote Island Areas (PRIA) Ecosystem Standing Committee
4. *2 p.m. to 3:30 p.m.*; Marianas Archipelago Ecosystem Standing Committee
5. *2 p.m. to 3:30 p.m.*; American Samoa Archipelago Ecosystem Standing Committee
6. *3:30 p.m. to 4:30 p.m.*; Fishery Rights of Indigenous People Standing Committee
7. *4:30 p.m. to 6 p.m.*; Program Planning Standing Committee

The agenda during the full Council meeting will include the items listed here.

Schedule and Agenda for Council Meeting

Wednesday, October 10, 2007, 9 a.m. to 5 p.m.

1. Introductions
2. Approval of Agenda
3. Approval of 138th Meeting Minutes
4. Agency Reports

A. NMFS

1. Pacific Islands Regional Office (PIRO)
2. Pacific Islands Fisheries Science Center (PIFSC)

B. NOAA General Counsel

C. United States Fish and Wildlife Service (USFWS)

D. Enforcement

1. United States Coast Guard (USCG)
2. NOAA Office for Law Enforcement (OLE)
3. Status of Violations

5. Action Items

A. Pelagics Ecosystem Action Items

1. Hawaii Swordfish Fishery Effort Options
2. Pelagics Total Allowable Catch (TAC) Amendment
3. Mariana Longline and Purse-Seine Closed Area Options
4. Non-Longline Pelagic Fishery Management Options

5. American Samoa Purse-Seine Closed Area Options
6. Initial Review of the American Samoa Management Program
B. Hawaii Archipelago Action Items
1. Bottomfish Risk Analysis
C. Fishery Rights of Indigenous People Action Items
1. Marine Training and Education Program
2. Community Development Program Options
D. Program Planning and Research Action Items
1. Western Pacific Recreational Fishery Data Collection Project
2. Federal Management Unit Species (MUS) Fishery Permitting and Reporting Options
3. Magnuson-Stevens Re-authorization Act Five-year Plan
4. Annual Catch Limit (ACL) Options
5. Marine Conservation Plans (MCP)
E. Scientific and Statistical Committee (SSC) Recommendations
F. Standing Committee Recommendations
G. Public Hearing
H. Council Discussion and Action

Thursday, October 11, 2007, 9 a.m. to 4 p.m.

6. Mariana Archipelago
A. Arongo flaeey and Islan Informe (Island Area Reports)
1. Commonwealth of the Northern Mariana Islands (CNMI)
2. Guam
B. Enforcement Issues
C. Mariana Community Issues
1. Military Access to Cultural Preserves
2. Saipan Fishermen's Cooperative
3. Status of Micronesian Challenge
4. Other Issues
D. Education and Outreach Initiatives
E. SSC Recommendations
F. Standing Committee Recommendations
G. Public Comment
H. Council Discussion and Action
7. American Samoa Archipelago
A. Motu Repote (Island Area Reports)
B. Enforcement Issues
C. Status of American Samoa Fishery Development Project
D. Report on American Samoa Marine Lab Development
E. American Samoa Community Issues
1. Fagatele Bay Sanctuary Report
2. Status of American Samoa Nearshore Fishery Resources
3. Report on US Coral Reef Task Force
i. Traditional Ecological Knowledge
ii. Report on Action Items
4. Other Issues
F. Education and Outreach Initiatives
G. SSC Recommendations
H. Standing Committee Recommendations
I. Public Comment
J. Council Discussion and Action
8. Hawaii Archipelago and Pacific Remote Island Areas (PRIA)
A. Moku Pepa (Island Area Reports)
B. Enforcement Issues
C. Hawaii Community Issues
1. Humpback Whale Sanctuary Report
2. Sustainability 2050
3. Other Issues
D. Education and Outreach Initiatives
E. SSC Recommendations
F. Standing Committee Recommendations
G. Public Comment
H. Council Discussion and Action

Thursday, October 11, 2007, 4 p.m. to 5 p.m.

9. Public Comment on Non-Agenda Items

Friday, October 12, 2007, 9 a.m. to 5 p.m.

10. Pelagic and International Fisheries
A. American Samoa and Hawaii Longline Quarterly Reports
B. International Fisheries
1. Inter-American Tropical Tuna Commission (IATTC) Annual Meeting
2. International Science Committee (ISC) Meeting
3. Western and Central Pacific Fisheries Commission (WCPFC), Third Science Committee Meeting
4. Northern Committee Meeting
5. Bellagio II
6. Tri-National Exchange
7. International Fishers Forum Four (IFF4)
C. SSC Recommendations
D. Standing Committee Recommendations
E. Public Comment
F. Council Discussion and Action
11. Program Planning
A. Regional Strategic Plan for Coastal Fisheries
B. Marine Recreational Information Program
1. Update on the Recreational Registry
C. Status of Hawaii Disaster Relief Program Projects
D. National and International Education and Outreach
E. Legislation
1. Oceans Conservation, Education, and National Strategy for the 21st Century Act
2. Coral Reef Conservation Act of 2007
3. Marine Mammal Protection Act
4. Offshore Aquaculture Act of 2007
F. Report on Magnuson-Stevens Act (MSRA) Workshop
G. SSC Recommendations
H. Standing Committee Recommendations
I. Public Comment
J. Council Discussion and Action
12. Administrative Matters & Budget
A. Financial Reports
B. Administrative Reports
C. Meetings and Workshops
D. Council Family Changes
1. Non-Commercial Data Advisory Group
E. Standing Committee Recommendations
F. Public Comment
G. Council Discussion and Action
13. Election of Officers for Calendar Year 2008
14. Other Business
A. Next Meeting

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: September 20, 2007.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–18865 Filed 9–24–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

US Air Force Scientific Advisory Board Notice of Meeting

AGENCY: Department of the Air Force, U.S. Air Force Scientific Advisory Board.

ACTION: Notice.

SUMMARY: The Air Force Scientific Advisory Board (SAB) will meet on 10–11 Octtober 2007 at the SAF/AQ Conference and Innovation Center, 1560 Wilson Blvd., Rosslyn, VA. The purpose of the meeting is to hold the SAB Fall

Board Meeting. The briefings and discussion will include presentations from senior Air Force leadership, leadership from the defense industry, and technology leaders from the other military branches. In addition, the Air Force Research Laboratory will be discussing the Focused Long Term Challenges (FLTC) and the critical technology areas for air, space and cyberspace dominance into the future.

Pursuant to 5 U.S.C. 552b, as amended and 41 CFR section 102–3.144, the Department of Defense has determined that the meeting shall be closed to the public. The Administrative Assistant to the Secretary of the Air Force, in consultation with the Office of the Air Force General Counsel, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1), (4), and (9)(B) of Title 5 United States Code.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel David J. Lucia, Executive Director, Air Force Scientific Advisory Board, 1180 Air Force Pentagon, Washington, DC 20330–1180, (703) 697–4811.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E7–18893 Filed 9–24–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–15–007]

Caledonia Energy Partners, LLC.; Notice of Application

September 18, 2007.

Take notice that on September 12, 2007, Caledonia Energy Partners, LLC. (Caledonia), 2001 Timber Creek Road, Flower Mound, TX, 75028, filed in Docket No. CP05–15–007, an application under sections 7(b) and (c) of the Natural Gas Act (NGA), to amend its certificate of public convenience and necessity issued by the Commission on April 19, 2005, as amended by orders issued on April 12, 2006 and April 5, 2007 (Caledonia Energy Partners, LLC., 111 FERC ¶ 61,095 (2005), Order Amending Certificate, 115 FERC ¶ 62,060 (2006), Order Approving Amendment, 119 FERC ¶ 62,012 (2007)). Caledonia requests authorization for minor modifications to its storage facilities in Lowndes and Monroe Counties, Mississippi. Specifically, Caledonia seeks authorization to abandon an injection/withdrawal well and authorization to reenter and operate an existing depleted production well as an injection/withdrawal well as a replacement along with authorization to construct related wellhead piping, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Jim Goetz, Caledonia Energy Partners, LLC., 2001 Timber Creek Road, Flower Mound, Texas 75028, at (972) 691–3332, or by fax at (972) 874–8743, or Christopher A. Schindler, Hogan & Hartson, LLP., 555 Thirteenth Street, NW., Washington, DC 20004, at (202) 637–5723, or by fax at (202) 637–5910.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: October 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18840 Filed 9–24–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC07–7–000]

Strategic Energy, L.L.C.; Notice of Filing

September 18, 2007.

Take notice that on September 11, 2007, Strategic Energy, L.L.C. (Strategic Energy), submitted an appeal disputing its inclusion on the North American Electric Reliability Corporation (NERC) within ReliabilityFirst Corporation as a load serving entity. Strategic Energy is concurrently filing a Request for Expedited Consideration.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 11, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18836 Filed 9–24–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR07–22–000]

BP West Coast Products LLC, Complainant, v. Calnev Pipe Line LLC, Respondent; Notice of Complaint

September 18, 2007.

Take notice that on September 13, 2007, BP West Coast Products LLC (BP), pursuant to Rule 206 of the Rules of Practice and Procedure of the Commission's Regulations, 18 CFR 385.206, the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 385.343.2 sections 1(5), 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 U.S.C. App. §§ 1(5), 8, 9, 13, 15, and 16 (1994), and section 1803 of the Energy Policy Act of 1992, hereby files this second complaint against Calnev Pipe Line LLC (Calnev), challenging the justness and reasonableness of rates for transportation, surcharged services, and terminalling on Calnev's interstate pipeline system.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 15, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18838 Filed 9–24–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–100–000]

E.ON U.S. LLC, Complainant, v. Midwest Independent Transmission System Operator, Inc., Respondent; Notice of Complaint

September 18, 2007.

Take notice that on September 17, 2007, E.ON U.S. LLC (E.ON) filed a complaint under Rules 206 and 212 of the Rules of Practice and Procedure of the Commission's regulations, 18 CFR 385.206, 395.212 (2007), alleging that the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) is failing to implement its resettlement process under its Transmission and Energy Markets Tariff in accordance with Commission Orders. E.ON certifies that a copy of the complaint was served on the appropriate contacts for Midwest ISO.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to

intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov, using the ''eLibrary''* link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18839 Filed 9–24–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12667–003]

City of Hamilton, Ohio; Notice Soliciting Scoping Comments

September 18, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12667–003.

c. *Date filed:* October 6, 2006.

d. *Applicant:* City of Hamilton, Ohio.

e. *Name of Project:* Meldahl Hydroelectric Project.

f. *Location:* On the Ohio River, near the City of Augusta, Bracken County, Kentucky. The existing dam is owned and operated by the U.S. Army Corps of Engineers (Corps). The project would occupy approximately 81 acres of United States lands administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael Perry, Director of Electric, City of Hamilton, Ohio, 345 High Street, Hamilton, OH 45011, (513) 785–7229.

i. *FERC Contact:* Peter Leitzke at (202) 502–6059, or *peter.leitzke@ferc.gov.*

j. *Deadline for filing scoping comments:* October 18, 2007.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application is not ready for environmental analysis at this time.

l. The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Captain Anthony Meldahl Locks and Dam, and would consist of: (1) An intake approach channel; (2) an intake structure, (3) a 248-foot-long by 210-foot-wide powerhouse containing three generating units having a total installed capacity of 105 megawatts, (4) a tailrace channel; (5) a 5-mile-long, 138-kilovolt transmission line; and (6) appurtenant facilities. The City of Hamilton (Hamilton) is a municipal entity that owns and operates an electrical system. The project would have an estimated annual generation of 489 gigawatt-hours, which would be used to serve the needs of the customers of Hamilton's electric system.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. You may also register online at *http://www.ferc.gov.esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Scoping Process:* The Commission staff intends to prepare a single Environmental Assessment (EA) for the Meldahl Hydropower Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information on the Scoping Document (SD) issued on September 18, 2007.

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's service list.

Copies of the SD may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18837 Filed 9–24–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0017; FRL–8472–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Underground Injection Control (UIC) Program (Renewal); EPA ICR No. 0370.21; OMB Control No. 2040–0042

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 25, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2003–0017, to (1) EPA online using www.regulations.gov (our preferred method), by e-mail to *OW–Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, MC 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert E. Smith, Office of Ground Water and Drinking Water/Drinking Water Protection Division/Underground Injection Control Program, 4606M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–3895; fax number: 202–564–3756; e-mail address: *smith.Robert-eu@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 28, 2007 (72 FR 8983), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2003–0017, which is available for online viewing at www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use EPA's electronic docket and comment system at www.regulations.gov, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at www.regulations.gov as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to www.regulations.gov.

Title: Underground Injection Control (UIC) Program (Renewal).

ICR numbers: EPA ICR No. 0370.21, OMB Control No. 2040–0042.

ICR Status: This ICR is scheduled to expire on September 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Underground Injection Control (UIC) Program under the Safe Drinking Water Act established a Federal and State regulatory system to protect underground sources of drinking water (USDWs) from contamination by injected fluids. Owners/operators of underground injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to EPA or the State UIC primacy agency. States must report to EPA on permittee compliance and related information. The mandatory information is reported using standardized forms and annual reports, and the regulations are codified at 40 CFR Parts 144 through 148. The data are used by UIC authorities to ensure the protection of USDWs.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.35 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of injection wells and state UIC Program primacy agencies.

Estimated Number of Respondents: 38,824.

Frequency of Response: yearly, semi-annually, quarterly, and other.

Estimated Total Annual Hour Burden: 1,000,648 hours.

Estimated Total Annual Cost: $139,632,191, includes $104,697,829 in annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 335,409 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease primarily reflects abatement of permitting and closure activities under the 1999 Class V Rule; reduced Class V well inventory activities; and a reduction in the Class II inventory, particularly the number of Class II permit applications that operators will submit during the clearance period.

Dated: September 14, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–18847 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0069; FRL–8472–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; The SunWise Program; EPA ICR No. 1904.03, OMB Control No. 2060–0439

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 25, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0069, to EPA online using *www.regulations.gov* (our preferred method), by e-mail to *a-and-r-docket@epamail.epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, The SunWise Program, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kristinn Vazquez, Office of Air and Radiation, Stratospheric Protection Division, Mail Code: 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9246; fax number: 202–343–2338; e-mail address: *vazquez.kristinn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 12, 2007 (72 FR 6564), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received 1 comment during the comment period, which is addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0069, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Office of Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: The SunWise Program.

ICR numbers: EPA ICR No. 1904.03, OMB Control No. 2060–0439.

ICR Status: This ICR is scheduled to expire on 9/30/2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The goal of the SunWise School Program is to teach children and their caregivers how to protect themselves from overexposure to the sun. The SunWise Program recognizes the challenge of measuring the progress and evaluating the effectiveness of an environmental and public health education program where the ultimate goal is to reduce risk and improve public health. Therefore, the continual and careful evaluation of program effectiveness through a variety of means, including data from pre- and post-intervention surveys, tracking and monitoring of classroom activities and school policies, and advisory board meetings, is necessary to monitor progress and refine the program. Surveys to be developed and administered include: (1) Student survey to identify current sun safety knowledge and behaviors among students; and (2) teacher questionnaire for measuring their receptivity to the educational component of the Program. The data will be analyzed and results will indicate the Program's effect on participants' sun-protection attitudes and behaviors. Additionally, information is collected when educators sign up to receive a Tool Kit either on the Web or in person, and when individuals participate in an on-line sun safety tutorial/certification program. Responses to the collection of information are voluntary. All responses to the collection of information remain anonymous and confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average .33 hours per response for the survey, .17 hours per response for the registration, and .04 hours per response for the tutorial/certification. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Respondents/Affected Entities: Individuals.

Estimated Number of Respondents: 8,600.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 1965.

Estimated Total Annual Cost: $74,898 in labor costs, and no annualized capital and O&M costs.

Changes in the Estimates: There is an annual increase of 132 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to additional questions that were added to the tutorial/certification program, and revised estimates based on inflation, contractor costs, and increased numbers of registrations.

Dated: September 14, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–18848 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2007–0706; FRL–8472–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Small Business Stationary Source Technical and Environmental Compliance Assistance Programs (SBTCP) Annual Reporting Form; EPA ICR No. 1748.05, OMB Control No. 2060–0337

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on November 30, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 26, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OA–2007–0706, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: oei.docket@epa.gov*
- *Fax:* 202 566–9744.
- *Mail:* Environmental Protection Agency (EPA) Docket Center, Office of Environmental Information Docket (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center, Office of Environmental Information Docket, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004.

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

Instructions: Direct your comments to Docket ID No. EPA–HQ–OA–2007–0706. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Angela Suber, Office of Small and Disadvantaged Business Utilization, 1230T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202 566–2827; fax number: 202 566–1505; e-mail address: *suber.angela@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OA–2007–0706, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are the State Small Business Stationary Source Technical and Environmental Compliance Assistances Programs (SBTCP).

Title: State Small Business Stationary Source Technical and Environmental Compliance Assistances Programs (SBTCP) Annual Reporting Form

ICR numbers: EPA ICR No. 1748.05, OMB Control No. 2060–0337.

ICR status: This ICR is currently scheduled to expire on November 30, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: As part of the Clean Air Act Amendments of 1990, the U.S. Congress included, as part of Section 507, the requirement that each state establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to assist small businesses in complying with the Act. These programs are generally known as Small Business Environmental Assistance Programs (SBEAP). EPA must provide the Congress with periodic reports from the EPA Small Business Ombudsman (SBO) on these programs, including their effectiveness, difficulties encountered, and other relevant information. Each state assistance program will submit requested information to EPA for compilation and summarization. This collection of information is mandatory under Section 507(a), (d), and (e) of the Clean Air Act as amended in 1990, Public Law 101–549, November 15, 1990. This Act directs EPA to monitor the SBTCPs and to provide a report to Congress. This responsibility has been delegated to the EPA SBO. Response to the collection is not required to obtain or retain a benefit. Information in the annual Report to Congress is aggregated and is not of a confidential nature. None of the information collected by this action results in/or requests sensitive information of any nature from the states.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 80 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 53.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1 per year.

Estimated total annual burden hours: 4561.

Estimated total annual costs: $163,111.95. This includes an estimated burden cost of $163,111.95 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 2015 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's and the SBEAPs' desire to make useful data available to the public. The trend among government agencies is towards outcome measures; in the past the data collected through this ICR was of limited use in providing measures of this type. Therefore, the EPA, in consultation with representatives from the state programs, has decided that improved data quality and usefulness is worth the burden increase.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: September 13, 2007.

Jeanette L. Brown,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. E7–18873 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8472–3]

Public Water System Supervision Program Variance and Exemption Review for the State of Colorado

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is conducting a statutory review of variances and exemptions issued by the State of Colorado under the Safe Drinking Water Act (SDWA) Public Water System Supervision (PWSS) program. The SDWA, 42 U.S.C. 300 *et seq.*, requires that EPA periodically review variances and exemptions issued by States with primary enforcement authority to determine compliance with requirements of the Statute. 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d). In accordance with these provisions in the SDWA and its accompanying regulations at 40 CFR 142.22, EPA is giving public notice that the EPA Region 8 will be conducting a review of the variances and exemptions issued by the State of Colorado to Public Water Systems under its jurisdiction. The review will be conducted at Colorado Department of Public Health and Environment on September 25, 2007.

The public is invited to submit comments on any or all variances and/or exemptions issued by the State of Colorado, and on the need for continuing them, by October 15, 2007. Results of this review will be published in the **Federal Register**.

ADDRESSES: Comments on variances and exemptions issued by the State of Colorado should be addressed to: Robert E. Roberts, Regional Administrator, c/o Jack Theis (8P–W–DW), U.S. EPA, Region 8, 1595 Wynkoop St, Denver, CO

80202–1129. All data and other information with respect to the variances and exemptions issued by the State of Colorado are located at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Jack Theis at 303–312–6347 or *Theis.Jack@epa.gov*.

SUPPLEMENTARY INFORMATION: Colorado has an EPA approved program for assuming primary enforcement authority for the PWSS program, pursuant to section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2 and 40 CFR Part 142.

A. Why do States issue variances and exemptions?

States with primary enforcement authority are authorized to grant variances and exemptions from National Primary Drinking Water Regulations due to particular situations with specific public water systems providing these variances and exemptions meet the requirements of the SWDA Section 1415 and 1416 and are protective of public health.

B. Why is a review of the variances and exemption necessary?

Colorado is authorized to grant variances and exemptions to drinking water systems in accordance with the SDWA. The SDWA requires that EPA periodically review State issued variances and exemptions to determine compliance with the Statute. 42 U.S.C. 300g–4(e)(8); 42 U.S.C.300g–5(d).

Dated: September 14, 2007.

Kerrigan G. Clough,

Deputy Regional Administrator, Region 8.

[FR Doc. E7–18843 Filed 9–24–07; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to guarantee $19 million in commercial bank financing for the U.S. export of approximately $31 million worth of photovoltaic module manufacturing equipment and services for the construction of a new thin film photovoltaic production facility in Germany. The U.S. exports will enable the German company to produce approximately 21.5 megawatts (MW) worth of amorphous silicon thin film photovoltaic modules per year on average during the 8-year repayment term of the loan. Available information indicates that all of this new German production will be consumed in Germany. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Helene S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. E7–18888 Filed 9–24–07; 8:45 am]

BILLING CODE 6690–01–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 19, 2007.

A. Federal Reserve Bank of Cleveland (Douglas A. Banks, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Fifth Third Bancorp, and Fifth Third Financial Corporation, both of Cincinnati, Ohio; to merge with First Charter Corporation, and thereby indirectly acquire First Charter Bank, both of Charlotte, North Carolina.

B. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. City Savings Bancshares, Inc., Deridder, Louisiana; to merge with Louisiana Community Bancshares, Inc., Kaplan, Louisiana, and thereby indirectly acquire Kaplan State Bank, Kaplan, Louisiana, and Teche Bank & Trust Co., Saint Martinville, Louisiana.

Board of Governors of the Federal Reserve System, September 20, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–18833 Filed 9–24–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0202]

Draft Guidance for Industry: Microbiological Considerations for Antimicrobial Food Additive Submissions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled ''Guidance for Industry: Microbiological Considerations for Antimicrobial Food Additive Submissions.'' The draft guidance explains, using a question and answer format, FDA's current thinking on a number of microbiological issues unique to the preparation of premarket submissions for antimicrobial food additives.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by November 26, 2007.

ADDRESSES: Submit written requests for single copies of the draft guidance document to the Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and

Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1071.

SUPPLEMENTARY INFORMATION:

I. Background

The Food and Drug Administration (FDA) is responsible for prescribing the conditions of safe use of food additives under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348). To evaluate the safety of food additives and determine their conditions of safe use, the agency uses various premarket approval processes (food additive petition process (21 CFR 171.1), premarket notification process for food contact substances (21 CFR 170.100), and threshold of regulation process for substances used in food contact articles that migrate or may be expected to migrate into food (21 CFR 170.39)). This guidance provides answers to common questions arising during the preparation of premarket submissions that seek FDA approval of new antimicrobial food additives. This guidance will assist petitioners and notifiers in designing studies to determine whether an antimicrobial food additive achieves its intended technical effect. In addition, this guidance discusses microbiological data that may demonstrate that an antimicrobial agent will be safe for the intended use. This guidance applies to all premarket approval submissions for food additives that are intended to control microbes in or on food, including sources of radiation for treating food.

The agency has adopted good guidance practices (GGPs) that set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (21 CFR 10.115). This draft guidance is being issued as a Level 1 guidance document consistent with the GGPs. The draft guidance represents the agency's current thinking on microbiological considerations for antimicrobial food additive submissions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance (see **FOR FURTHER INFORMATION CONTACT**).

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 70.25, 71.1, 170.35, and 171.1 have been approved under OMB control number 0910–0016; the collection of information in 21 CFR 170.39 has been approved under OMB control number 0190–0298; and the collections of information in 21 CFR 170.101 and 170.106 have been approved under OMB control number 0190–0495.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. If you base your comments on scientific evidence or data, please submit copies of the specific information along with your comments. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.cfsan.fda.gov/guidance.html*.

Dated: September 18, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–18816 Filed 9–24–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The Division of Independent Review Grant Reviewer Recruitment Form (OMB No. 0915–0295): Extension

HRSA's Division of Independent Review (DIR) is responsible for carrying out the independent and objective review of all eligible applications submitted to HRSA. DIR ensures that the independent review process is efficient, effective, economical, and complies with statutes, regulations, and policies. The review of applications is performed by people knowledgeable in the field of endeavor for which support is requested and is advisory to individuals in HRSA responsible for making award decisions.

To streamline the selection and assignment of grant reviewers to objective review committees, HRSA utilizes a Web-based data collection form to gather critical reviewer information. The Grant Reviewer Form standardizes pertinent categories of reviewer information, such as: Areas of

expertise; occupations; work settings; reviewer experience; and allows maximum use of drop-down menus to simplify the data collection process. The Web-based system also permits reviewers to update their information as needed. HRSA maintains a pool of approximately 5,000 individuals that have previously served on HRSA objective review committees.

The estimated annual burden is as follows:

Grant recruitment form	Number of respondents	Responses per respondent	Total responses	Hours per response (min.)	Total burden hours
New reviewer	1,200	1	1,200	45	900
Updating reviewer information	3,700	1	3,700	30	1,850
Total	4,900		4,900		2,750

Send comments to Susan G. Queen, PhD., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 19, 2007.

Alexandra Huttinger,

Acting Director, Director, Division of Policy Review and Coordination.

[FR Doc. E7–18911 Filed 9–24–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[COTP New Orleans 07–019]

Area Maritime Security Committee, New Orleans; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership in the Area Maritime Security Committee, New Orleans. The Committee assists the Captain of the Port, New Orleans, in developing, reviewing, and updating the Area Maritime Security Plan for their area of responsibility.

DATES: Requests for membership should reach the Captain of the Port, New Orleans, on October 25, 2007.

ADDRESSES: Submit applications for membership to the Captain of the Port, New Orleans, Attn: Planning Department, 201 Hammond Hwy., Metairie, La. 70005.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Ford at 504–565–5092 or Mr. James Nolan 504–565–5085.

SUPPLEMENTARY INFORMATION:

The Committee

The Area Maritime Security Committee, New Orleans (the Committee), is established under, and governed by, 33 CFR part 103, subpart C. The functions of the Committee include, but are not limited to, the following:

(1) Identifying critical port infrastructure and operations.

(2) Identifying risks (i.e., threats, vulnerabilities, and consequences).

(3) Determining strategies and implementation methods for mitigation.

(4) Developing and describing the process for continuously evaluating overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied.

(5) Advising and assisting the Captain of the Port in developing, reviewing, and updating the Area Maritime Security Plan under 33 CFR part 103, subpart E.

Positions Available on the Committee

There are 8 vacancies on the Committee. Members may be selected from—

(1) The Federal, Territorial, or Tribal government;

(2) The State government and political subdivisions of the State;

(3) Local public safety, crisis management, and emergency response agencies;

(4) Law enforcement and security organizations;

(5) Maritime industry, including labor;

(6) Other port stakeholders having a special competence in maritime security; and

(7) Port stakeholders affected by security practices and policies.

In support of the Coast Guard's policy on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Qualification of Members

Members must have at least 5 years of experience related to maritime or port security operations. Applicants may be required to pass an appropriate security background check before appointment to the Committee.

The term of office for each vacancy is 5 years. However, a member may serve one additional term of office. Members are not salaried or otherwise compensated for their service on the Committee.

Format of Applications

Applications for membership may be in any format. However, because members must demonstrate an interest in the security of the area covered by the Committee, we particularly encourage the submission of information highlighting experience in maritime or security matters.

Authority

Section 102 of the Maritime Transportation Security Act of 2002 (Pub. L. 107–295) (the Act) authorizes the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Committees for any port area of the United States. See 33 U.S.C. 1226; 46 U.S.C. 70112(a)(2); 33 CFR 103.205; Department of Homeland Security Delegation No. 0170.1. The Act exempts Area Maritime Security Committees from the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

Dated: August 31, 2007.

L.D. Stroh,

Captain, U.S. Coast Guard, Captain of the Port, New Orleans.

[FR Doc. E7–18886 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–86]

Notice of Submission of Proposed Information Collection to OMB; Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Residential Loan Application for Reverse Mortgages and related documents are used to determine borrower eligibility, property analysis, underwriting analysis, and collection of mortgage insurance premiums for loans that meet statutory, regulatory, state and FHA requirements. The HECM Program employs the use of HUD-approved housing counseling agencies that provide the required consumer education sessions; and FHA-approved lenders that are responsible for the origination, underwriting, and servicing responsibilities of FHA-insured loans.

DATES: *Comments Due Date:* October 25, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0524) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents.

OMB Approval Number: 2502–0524.

Form Numbers: HUD–92900–A, Fannie Mae 1009, HUD–92901, HUD–92902, HUD–1, HUD–1 Addendum, HUD–92051, HUD–92561, HUD–92800.5B, Fannie Mae 1004, Fannie Mae 1004C, Fannie Mae 1025, Fannie Mae 1073, Fannie Mae 1003.

Description of the Need for the Information and its Proposed Use: The Residential Loan Application for Reverse Mortgages and related documents are used to determine borrower eligibility, property analysis, underwriting analysis, and collection of mortgage insurance premiums for loans that meet statutory, regulatory, state and FHA requirements. The HECM Program employs the use of HUD-approved housing counseling agencies that provide the required consumer education sessions; and FHA-approved lenders that are responsible for the origination, underwriting, and servicing responsibilities of FHA-insured loans.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2020	45.55		1.44		132,894

Total Estimated Burden Hours: 132,894.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 19, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–18793 Filed 9–24–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6683–G, AA–6683–L, AA–6683–A2; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Stuyahok Limited. The lands are in the vicinity of New Stuyahok, Alaska, and are located in:

Seward Meridian, Alaska

T. 6 S., R. 45 W., Secs. 4, 8, and 18; Secs. 31 and 32.

Containing 3,146.16. T. 7 S., R. 45 W., Sec. 6.

Containing 621.16. T. 7 S., R. 46 W., Secs. 9 and 29.

Containing 1,280 acres. T. 8 S., R. 46 W., Sec. 11.

Containing 626.44 acres. T. 7 S., R. 48 W., Sec. 29.

Containing 639.10 acres.

Aggregating 6,312.86 acres.

The subsurface estate in these lands will be conveyed to Bristol Bay Native Corporation when the surface estate is conveyed to Stuyahok Limited. Notice

of the decision will also be published four times in the Bristol Bay Times.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until October 25, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Michael Bilancione,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–18880 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1020–PI–020H; HAG–07–0204]

Date Change for Steens Mountain Advisory Council Meeting

AGENCY: Bureau of Land Management, Burns District, Interior.

ACTION: Change of Meeting Date.

SUMMARY: The November 15 and 16, 2007, Steens Mountain Advisory Council meeting has been changed to December 6 and 7, 2007. The original **Federal Register** notice announcing the meeting was published January 18, 2007, page 2306. The meeting session will begin both days at 8 a.m., local time, and will conclude at 4:30 p.m. on day one and at approximately 2 p.m. on day two. The entire meeting is open to the public with public comment scheduled for 11 to 11:30 a.m. both days. The meeting will be held at the Bureau of Land Management, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Steens Mountain Advisory Council may be obtained from Rhonda Karges, Environmental Protection Specialist, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, (541) 573–4433 or *Rhonda_Karges@blm.gov.*

Dated: September 19, 2007.

Dana R. Shuford,

Burns District Manager.

[FR Doc. E7–18878 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–320–07–1232–FH–AZ21; 1232]

Notice of Special Recreation Permit Fee Adjustments and Supplementary Rule Revision for Use of All Arizona and California Long-Term Visitor Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Adjustment of Special Recreation Permit fees and revision of supplementary rules for Long-Term Visitor Areas managed by the California Desert District, California, and the Colorado River District, Arizona.

SUMMARY: The Bureau of Land Management (BLM) Yuma, Palm Springs-South Coast, and El Centro Field Offices are: (1) Adjusting the Special Recreation Permit (SRP) fees for recreational use of Long-Term Visitor Areas (LTVA), and (2) amending the supplementary rules applying to the LTVA Program. The BLM State Directors are authorized to adjust SRP fees for recreational use of special areas, as they find it necessary (43 CFR 2932.31(d)). The amendment of the supplementary rules is only a technical change that eliminates the need to reprint the Supplementary Rule pamphlet after every change in the LTVA fee schedule. The amendment is not a substantive change in the visitor rules of conduct for the LTVAs.

DATES: Effective date: September 25, 2007.

ADDRESSES: You may send inquiries or suggestions to the BLM Yuma Field Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365; the BLM Palm Springs/South Coast Field Office, P.O. Box 581260 (690 West Garnet Avenue); the North Palm Springs, California 92258; or the BLM El Centro Field Office, 1661 South 4th Street, El Centro, California 92243.

FOR FURTHER INFORMATION CONTACT: BLM Yuma Field Office, Mark Lowans, Assistant Field Manager for Recreation and Visitor Services, 928–317–3200; BLM Palm Springs Field Office, Mona Daniels, Outdoor Recreation Planner, 760–251–4800; or BLM El Centro Field Office, Dallas Meeks, Outdoor Recreation Planner, 760–337–4400.

SUPPLEMENTARY INFORMATION:

I. Discussion of the LTVA Program

The BLM's LTVA program was established in 1983 to meet the long-term camping needs of winter visitors staying on the public lands. The LTVAs have been designated as ''special areas'' where it has been determined that the resources require special management and control measures for their protection, and where a permit system for individual use would achieve management objectives. All of the LTVAs have been designated as special areas in compliance with the BLM's land use planning process, outlined in 43 CFR part 1600 *et seq.* The designation of LTVAs ensures that suitable locations are available for long-term use year after year and that areas with sensitive natural and cultural resources are not used for extended periods of time. The requirements for special areas can be found in 43 CFR part 2932 *et seq.*

The BLM manages seven LTVAs. The Yuma Field Office manages the La Posa and Imperial Dam LTVAs; the El Centro Field Office manages the Tamarisk, Pilot Knob, and Hot Spring LTVAs; and the Palm Springs/South Coast Field Office manages the Mule Mountain and Midland LTVAs. The LTVAs are located in La Paz County, Arizona, and Imperial and Riverside Counties, California.

II. Discussion of Special Recreation Permit Fees

Visitors must purchase a long-term or short-visit SRP for recreational use of the LTVAs. An SRP for use of the LTVAs is valid at all seven LTVAs for the duration of the permit's validity. Except for areas closed to camping and other designated recreation fee sites, visitors may stay free of charge on public lands outside of LTVAs for up to 14 days in any 28-day period.

The BLM has periodically adjusted SRP fees for use of the LTVAs since the LTVA program began to cover rising labor, administrative, and supply costs. The LTVA SRP fees were last adjusted in 2003. The following LTVA fee adjustments will be implemented on September 25, 2007: Increase the long-term (7-month) permit fee from $140 to $180, and increase the short-visit (14-day) permit fee from $30 to $40.

The authority for the BLM to require the purchase of a SRP for recreational

use within special areas is contained in 43 CFR 2932.11(b). The authority for the BLM State Directors to adjust SRP fees for use of special areas is contained in 43 CFR 2932.31(d)(2).

III. Discussion of Public Outreach Efforts

The LTVA fees were originally proposed to be adjusted in the BLM Yuma Field Office's Draft Recreation and Visitor Services Business Plan. The draft business plan was released for a 30-day public review and comment period in November 2005 and again in December 2006. During both public review and comment periods, the BLM posted the business plan on the BLM Yuma Field Office Web site and placed public notices in two local newspapers and on all LTVA informational kiosks. For the 2005 public review and comment period, postcards were sent to over 1,700 individuals, organizations, and agencies notifying them of the business plan's proposals and their opportunity to comment. During the 2006 public review and comment period, the BLM held two informational meetings at the LTVAs to describe the proposed fee adjustments. Approximately 150 people attended the meetings.

The BLM received 111 written comments concerning the LTVA fee adjustment proposals, with 55 comments received in 2005 and 56 received in 2006. Of these 111 comments, 22 supported the proposed LTVA fees; 28 supported the proposed fees, but recommended reducing the amount of the increase; 51 opposed the proposed fees; 9 did not support or oppose the fees, but recommended recreation facility improvement projects for the BLM to prioritize; and 1 comment was outside the scope of the business plan. Comments were accepted via mail, fax, or e-mail, and no comment was received from recreational clubs or organizations.

The BLM Arizona Resource Advisory Council (RAC) has the authority to review all BLM and Forest Service recreation fee proposals in Arizona. On March 8, 2007, the BLM presented the LTVA fee adjustment proposal and public comment results to the Arizona RAC. A **Federal Register** notice was published alerting the public of the March meeting and their opportunity to provide comments on the fee proposals, and no public comment was received. After the hearing, the Arizona RAC voted to support the LTVA fee proposal as presented and recommended that the BLM proceed with its implementation.

The public had opportunity to comment on this procedure during the comment periods discussed in this section of the preamble, and this technical amendment of the supplementary rules simply effectuates the procedure for adjusting fees presented in the **Federal Register** notice of February 26, 2007 (72 FR 8396), which invited comment at the RAC meeting that it announced. The Department of the Interior, therefore, for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary, and that the rule may be effective the date of publication.

IV. Discussion of Supplementary Rules

The supplementary LTVA rules apply year-round to all public land users within the LTVAs in Arizona and California. The BLM has determined that these supplementary rules for visitor conduct are necessary to provide for public safety and health and to reduce the potential damage to natural and cultural resources of the public lands. The supplementary rules have been developed to meet the goals and objectives of the three Field Office resource management plans. Pamphlets with these rules are available in each Field Office managing an LTVA, are posted at all LTVA sites and facilities, and are provided to all visitors who purchase an LTVA permit.

The revision of the supplementary LTVA rules would affect Section 1 only. Section 1 currently reads as follows:

Section 1. Permit Requirements and Fees

You must have a permit to camp in a designated LTVA between September 15 and April 15. The permit authorizes you to camp within any designated LTVA using those camping or dwelling unit(s) indicated on the permit between the periods from September 15 to April 15. There are two types of permits: Long-Term and Short-Visit. The long-term permit fee is $140, U.S. funds only, for the entire season or any part of the season. The short-visit permit is $30, U.S. funds only, for 14 consecutive days. The short-visit permit may be renewed an unlimited number of times for the cost of $30 for 14 consecutive days. The BLM will not refund permit fees.

The BLM is revising Section 1 of the supplementary LTVA rules to read as follows:

Section 1. Permit Requirements and Fees

You must have a permit to use a designated LTVA between September 15 and April 15. The permit authorizes you to camp within any designated LTVA using those camping or dwelling unit(s) indicated on the permit between the periods from September 15 to April 15. There are two types of permits: Long-Term and Short-Visit. The long-term permit is valid for the entire season or any part of the season. The short-visit permit is valid for 14 consecutive days, and may be renewed an unlimited number of times for the cost of the permit. LTVA users must pay the cost of the fee indicated on the LTVA permit, U.S. funds only, before or upon arrival. The BLM will not refund permit fees.

As Section 1 of the supplementary LTVA rules now reads, the BLM must pay to have the entire LTVA rule pamphlet reprinted and redistributed every time the LTVA fees are adjusted. The revision of the supplementary LTVA rules will reduce the BLM's long-term costs associated with the printing and distribution of the LTVA rule pamphlet. The BLM would continue to allow for comment on future LTVA fee adjustment proposals through public review meetings, announcements, and comment periods of LTVA program business plans, **Federal Register** notices, and other appropriate means as required by Federal law and BLM policy.

The authority for establishing supplementary rules is contained in 43 CFR 8365.1–6. Violations of supplementary rules are punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months, as provided in Section 303 of the Federal Land Policy and Management Act (43 U.S.C. 1733), and the Sentencing Reform Act (18 U.S.C. 3571).

V. Procedural Information

Executive Order (E.O.) 12866, Regulatory Planning and Review

The LTVA fee adjustments and supplementary rule revision are not significant regulatory actions and are not subject to review by the Office of Management and Budget under E.O. 12866. The actions would not have an effect of $1,000,000 or more on the economy. They are directed at the effective management of the BLM's LTVA Program. They would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These actions do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The actions would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor would they raise novel legal or policy issues.

Clarity of the Proposed SRP Fee Adjustments and Supplementary Rule Revision

E.O. 12866 requires each agency to write regulations that are simple and easy to understand. We invite your

comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed supplementary rules clearly stated? (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of the supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rules? (6) How could this description be more helpful in making the supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act of 1969

The BLM has prepared National Environmental Policy Act (NEPA) documents, including the Yuma District Resource Management Plan and Environmental Impact Statement (1988), the La Posa Interdisciplinary Management Plan and Environmental Assessment (1997), and the California Desert Conservation Area Plan and Environmental Impact Statement (1980), for the delineation and management of the LTVA program that this amended supplementary rule supports. These NEPA documents concluded that the designation of LTVAs, the collection of SRP fees, and the supplementary LTVA rules do not constitute major Federal actions significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA and 42 U.S.C. 4332(2)(C). All relevant NEPA documents are available for public review within the BLM Field Offices listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Furthermore, the BLM has determined that this rule is administrative and involves only procedural changes addressing fee requirements. Therefore, it is categorically excluded from environmental review under Section 102(2)(C) of NEPA, pursuant to 516 Departmental Manual (DM) 2.3A and 516 DM 2, Appendix 1, Item 1.10.

In addition, the rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the DOI, the term ''categorical exclusions'' means categories of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and therefore require neither an Environmental Assessment or an Environmental Impact Statement.

Regulatory Flexibility Act of 1980

Congress enacted the Regulatory Flexibility Act (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities.

The fees and supplementary rules for the BLM's LTVA Program do not pertain specifically to commercial or governmental entities of any size but contain rules to protect the health and safety of individuals, property, and resources on the public lands. Therefore, the BLM has determined under the RFA that the proposals do not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act of 1996

The supplementary LTVA rules do not constitute a major rule as defined in the Small Business Regulatory Enforcement Fairness Act at 5 U.S.C. 804(2). The supplementary rules pertain only to individuals who purchase an SRP for recreational use of the LTVAs. In this respect, the regulation of such use is necessary to protect the public lands, facilities, and those, including small business concessionaires, who use them. The supplementary rules have no effect on business, commercial, or industrial uses of the public lands.

Unfunded Mandates Reform Act of 1995

The actions do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $1,000,000 per year, nor do these proposals have a significant or unique effect on state, local, or tribal governments or the private sector. The actions do not require any actions of state, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

E.O. 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The actions do not represent a government action capable of interfering with constitutionally protected property rights. The proposals do not address property rights in any form and do not cause the impairment of anyone's property rights. Therefore, DOI has determined that the proposals would not cause a taking of private property or require further discussion of takings implications under this E.O.

E.O. 13132, Federalism

The actions would not have a substantial direct effect on states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. The supplementary rules apply in Arizona and California and do not address jurisdictional issues involving the State governments. Therefore, in accordance with E.O. 13132, the BLM has determined that these actions do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

E.O. 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with E.O. 13175, we have found that these actions would not include policies that have tribal implications. The actions would not affect lands held for the benefit of Indians, Aleuts, and Eskimos. The supplementary rules would apply only to persons engaged in long-term camping on certain designated public lands in Arizona and California.

E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The actions are not a significant energy action and would not have an adverse effect on energy supplies. The actions would have no discernible effect on the production or sale of energy minerals. Any effect on the consumption of energy minerals, either from visitors traveling to the LTVAs or from the manufacture of camping, mobile home, or trailer equipment, would be imperceptible.

Paperwork Reduction Act of 1995

The supplementary rules do not contain information collection requirements that the Office of

Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Author

The principal author of this notice is Aaron Curtis, assisted by Mark Lowans, both of the BLM Yuma Field Office, Arizona.

Notwithstanding the fact that only Section 1 of the supplementary rules for LTVAs is being amended by removing reference to specific dollar amounts, we present in this notice the new fee schedule and the entire set of supplementary rules for the convenience of the public. If there is a future need to adjust the LTVA fees, notice of that adjustment would be provided in accordance with the requirements of the Recreation Enhancement Act of 2004 (Pub. L. 108–447) and/or other applicable authority, and specific dollar amounts would be posted on site and published in local newspapers of general circulation.

For the reasons stated in the Preamble, and under the authority of 43 CFR 2932.31 and 43 CFR 8365.1–6, the BLM is adjusting the Special Recreation Permit fees and revising the supplementary rules for recreational use of Long-Term Visitor Areas in Arizona and California as follows:

Special recreation permit fees for use of long term visitor areas in Arizona and California, effective September 25, 2007.

Long-term permit (valid for up to 7 months): $180.00

Short-visit permit (valid for 14 days): $40.00

Supplementary Rules for Use of Long-Term Visitor Areas in Arizona and California

The following are the supplementary rules for the designated Long-Term Visitor Areas (LTVA), and are in addition to the rules of conduct set forth in 43 CFR subpart 8365. The supplementary rules apply year-long to all public land users who enter the LTVAs.

Section 1. Permit Requirements and Fees

You must have a permit to use a designated LTVA between September 15 and April 15. The permit authorizes you to camp within any designated LTVA using those camping or dwelling unit(s) indicated on the permit between the periods from September 15 to April 15. There are two types of permits: Long-term and Short-visit. The long-term permit is valid for the entire season or any part of the season. The short-visit permit is valid for 14 consecutive days, and may be renewed an unlimited number of times for the cost of the permit. LTVA users must pay the cost of the fee indicated on the LTVA permit, U.S. funds only, upon arrival. The Bureau of Land Management (BLM) will not refund permit fees.

Section 2. Displaying the Permit

To make it valid, at the time of purchase, you must affix your short-visit permit decal or long-term permit decal, using the adhesive backing, to the bottom right-hand corner of the windshield of all transportation vehicles and in a clearly visible location on all camping units. You may use no more than two secondary vehicles within the LTVA.

Section 3. Permit Transfers

You may not reassign or transfer your permit.

Section 4. Permit Revocation

An authorized BLM officer may revoke, without reimbursement, your LTVA permit if you violate any BLM rule or regulation, or if your conduct or that of your family, guest, or pets is inconsistent with the goal of BLM's LTVA Program. Failure to return any LTVA permit to an authorized BLM officer upon demand is a violation of these supplementary rules. If the BLM revokes your permit, you must remove all of your property and leave the LTVA system within 12 hours of notice, and you may not enter any other LTVA in Arizona or California for the remainder of the LTVA season.

Section 5. Unoccupied Camping Units

Do not leave your LTVA camping unit or campsite unoccupied for a period of greater than 5 days unless an authorized BLM officer approves in advance.

Section 6. Parking

For your safety and privacy, you must maintain a minimum of 15 feet of space between dwelling units.

Section 7. Removal of Wheels and Campers

Campers, trailers, and other dwelling units must remain mobile. Wheels must remain on all wheeled vehicles. You may set trailers and pickup campers on jacks manufactured for that purpose.

Section 8. Quiet Hours

Quiet hours are from 10 p.m. to 6 a.m. under applicable state time zone standards, or as otherwise posted.

Section 9. Noise

Do not operate audio devices or motorized equipment, including generators, in a manner that makes unreasonable noise as determined by the authorized BLM officer. Outdoor amplified music is allowed only within La Posa and Imperial Dam LTVAs and only in locations designated by the BLM and when approved in advance by an authorized BLM officer.

Section 10. Access

Do not block roads or trails commonly in public use with your parked vehicles, stones, wooden barricades, or by any other means.

Section 11. Structures and Landscaping

a. Fixed fences, dog runs, storage units, windbreaks, and other such structures are prohibited. Temporary structures of these types must conform to posted policies.

b. Do not alter the natural landscape by painting rocks or defacing or damaging any natural or archaeological feature.

Section 12. Livestock

Boarding or keeping livestock (horses, cattle, sheep, goats, etc.) within LTVA boundaries is prohibited.

Section 13. Pets

Pets must be kept on a leash at all times. Keep an eye on your pets. Unattended and unwatched pets may fall prey to coyotes or other desert predators. You are responsible for clean-up and sanitary disposal of your pet's waste.

Section 14. Cultural Resources

Do not disturb any archaeological or historical values including, but not limited to, petroglyphs, ruins, historic buildings, and artifacts that may occur on public lands.

Section 15. Trash

You must place all trash in designated receptacles. Public trash facilities are shown in the LTVA brochure. Do not deposit trash or holding-tank sewage in vault toilets. An LTVA permit is required for trash disposal within all LTVA campgrounds. You may not change motor oil, vehicular fluids, or dispose of or possess these used substances within an LTVA.

Section 16. Dumping

Do not dump sewage, gray water, or garbage on the ground. This includes motor oil and any other waste products. Federal, State, and county sanitation laws and county ordinance specifically prohibit these practices. Sanitary dump station locations are shown in the LTVA brochure. You must have an LTVA permit for dumping within all LTVA campgrounds.

Section 17. Self-Contained Vehicles

a. In Pilot Knob, Midland, Tamarisk, and Hot Springs LTVAs, you may camp only in self-contained camping units. The La Posa, Imperial Dam, and Mule Mountain LTVAs are restricted to self-contained camping units, except within 500 feet of a vault or restroom.

b. Self-contained camping units must have a permanent, affixed waste water holding tank of 10-gallon minimum capacity. The BLM does not consider port-a-potty systems, systems that utilize portable holding tanks, or permanent holding tanks of less than 10-gallon capacity, to be self-contained.

Section 18. Campfires

You may have campfires in LTVAs, subject to all local, State, and Federal regulations. You must comply with posted rules.

Section 19. Wood Collection

Do not collect wood within LTVAs. You may not possess native firewood(i.e., mesquite, ironwood, palo verde) within LTVAs. Please contact the nearest BLM office for current regulations concerning wood collection.

Section 20. Speed Limit

The speed limit in LTVAs is 15 miles per hour or as otherwise posted.

Section 21. Off-Highway Vehicle Use

Motorized vehicles must remain on existing roads, trails, and washes.

Section 22. Vehicle Use

Do not operate any vehicle in violation of State or local laws and regulations relating to use, standards, registration, operation, and inspection.

Section 23. Firearms

Do not discharge or otherwise use firearms or weapons inside or within 1/2 mile of LTVAs.

Section 24. Vending Permits

You must have a vending permit to carry on any commercial activity. Please contact the nearest BLM office for information on vending or concession permits.

Section 25. Aircraft Use

Do not land or take off in aircraft, including ultralights and hot air balloons, in LTVAs.

Section 26. Perimeter Camping

Do not camp within 1 mile outside the boundaries of Hot Springs, Tamarisk, and Pilot Knob LTVAs and within 2 miles outside the boundary of Midland LTVA.

Section 27. Hot Springs Spa and Day Use Area

Food, beverages, glass containers, soap, pets, and/or motorized vehicles are prohibited within the fenced-in area at the Hot Springs Spa. Day use hours are 5 a.m. to midnight.

Section 28. Mule Mountain LTVA

You may camp only at designated sites within Wiley's Well and Coon Hollow campgrounds. You may have only 1 camping or dwelling unit per site.

Section 29. Imperial Dam and La Posa LTVAs

Do not camp overnight in desert washes in Imperial Dam and La Posa LTVAs.

Section 30. La Posa LTVA

You may enter La Posa LTVA only by legal access roads along U.S. Highway 95. Do not create or use any other access points. Do not remove or modify barricades, such as fences, ditches, and berms.

Section 31. Posted Rules

You must observe and obey all posted rules. Individual LTVAs may have additional specific rules in addition to these supplementary rules. If posted rules differ from these supplementary rules, the posted rules take precedence.

Section 32. Other Laws

If you hold an LTVA permit, you must observe and obey all Federal, State, and local laws and regulations applicable to the LTVA.

Section 33. Campsite Maintenance

You must keep the LTVA and, specifically, your campsite, in a neat, orderly, and sanitary condition.

Section 34. Length of Stay

Between April 16 and September 14, you may stay in an LTVA only 14 days in any 28-day period. After your 14th day of occupation at an LTVA, you must move outside of a 25-mile radius of that LTVA.

Section 35. Penalties

Under 43 CFR 2932.56(b), if you knowingly and willfully violate or fail to comply with any of the supplementary rules provided in this notice, the BLM will revoke your LTVA permit. You may also be subject to issuance of a citation and/or arrest with a fine under 18 U.S.C. 3571 and/or imprisonment under 18 U.S.C. 3581, and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)).

Authorities: 43 U.S.C. 1701 *et seq.*

Helen M. Hankins,

Arizona Associate State Director.

Mike Pool,

California State Director.

[FR Doc. E7–18896 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO 931 1220 PA]

Proposed Supplementary Rule to Establish Application Fees for Commercial, Competitive, and Organized Group Activity and Event Special Recreation Permits

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rule; Correction.

SUMMARY: The Bureau of Land Management (BLM) published in the **Federal Register** of September 11, 2007, a document concerning a proposal to establish supplementary rules addressing Special Recreation Permit (SRP) fees. Inadvertently an effective date, October 1, 2007, was inserted in the **SUMMARY** section of the proposed rule. The document also included a penalty section that was inappropriate for the requirement in the proposed supplementary rule. This correction notice also removes that penalty provision.

FOR FURTHER INFORMATION CONTACT: Jack Placchi, Outdoor Recreation Planner Bureau of Land Management, Colorado State Office, 2850 Youngfield, Lakefield, Colorado 80215, (303) 239–3832.

SUPPLEMENTARY INFORMATION: The BLM published a document in the **Federal Register** of September 11, 2007 (72 FR 51835) giving the incorrect date of October 1, 2007, as the date the proposed fees would become effective. This correction removes that date and revises the language published on September 11, 2007.

Corrections

In the **Federal Register** of September 11, 2007, in FR Doc. E7–17827, make the following corrections:

On page 51834, in the third column, correct the sixth (6th) sentence of the **SUMMARY** to read as follows:

SUMMARY: * * * The proposed application fees are:

New Special Recreation Permits—$100

Renewals (re-issuance of expiring/expired permits)—$50

Transfers—$100

Annual operating authorizations—No fee charged * * *

On page 51837, in the first column, correct the document by removing the final paragraph and the heading ''Penalties.''

Dated: September 20, 2007.

Ted Hudson,

Acting Chief, Division of Regulatory Affairs.

[FR Doc. E7–18876 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–921; UTU–83478]

Notice of Proposed Withdrawal and Transfer of Jurisdiction; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Energy (DOE) has filed an application requesting the Secretary of the Interior to segregate from the mining laws approximately 1,476.5 acres of public lands associated with a proposed withdrawal and transfer of jurisdiction. The proposed withdrawal will protect public health and safety on lands contaminated by previous mining and milling operations. This notice temporarily segregates the lands for up to 2 years from location and entry under the United States mining laws while the withdrawal application is being processed.

DATE: Comments must be received on or before December 24, 2007.

ADDRESSES: Comments should be sent to the Moab Field Manager, Bureau of Land Management, 82 East Dogwood Avenue, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Realty Specialist, Moab Field Office, at the above address, (435) 259–2128.

SUPPLEMENTARY INFORMATION: The United States Department of Energy has filed an application with the Bureau of Land Management to segregate from the United States mining laws the public lands described below. Jurisdiction over approximately 1,476.5 acres will ultimately be withdrawn and transferred from the Department of the Interior to the Department of Energy, subject to valid existing rights.

Salt Lake Meridian

A parcel of land within sections 17, 18, 19, 20, and 21, T. 29 S., R. 24 E., San Juan County, Utah, more particularly described as follows:

Beginning at the NE corner section 21, T 29 S, R 24 E, SLM, and proceeding thence with the north line of section 21 N 89°47′38″ W 2641.47 feet to the north ¼ corner of section 21, thence with the north line of section 21 N 89°48′01″ W 2632.51 feet to the NW corner of section 21, thence with the north line of section 20 N 89°57′11″ W 626.74 feet to the SE corner of section 17, thence with the east line of section 17 N 00°09′50″ E 2348.18 feet to the west ¼ corner of section 16, thence with the east line of section 17 N 00°14′39″ E 278.89 feet to the east ¼ corner of section 17, thence with the center ¼ line S 89°58′28″ W 4651.57 feet to the ¼ corner of sections 17 and 18, thence with the center ¼ line N 89°52′47″ W 2638.81 feet to the center ¼ corner of section 18, thence with the center ¼ line S 00°05′13″ W 2642.09 feet to the ¼ corner sections 18 and 19, thence with the center ¼ line of section 19 S 00°01′31″ E 2642.73 feet to the center ¼ corner section 19, thence with the center ¼ line of section 19 N 89°59′10″ E 2641.20 feet to ¼ corner to sections 19 and 20, thence with the center ¼ line of section 20 N 89°51′20″ E 2640.14 feet to the center ¼ corner section 20, thence with the center ¼ line of section 20 S 00°09′42″ E 2641.01 feet to the ¼ corner to sections 20 and 29, thence with the south line of section 20 N 89°49′47″ E 2633.42 feet to the corner to sections 20, 21, 28 and 29, thence with the south line of section 21 S 89°49′24″ E 3285.09 feet, thence with the exterior boundary of patented lands the following 21 courses: N 12°47′08″ E 1409.64 feet, thence N 72°20′49″ W 599.75 feet, thence N 67°51′26″ W 599.74 feet, thence S 12°47′32″ W 1498.74 feet, thence N 68°35′52″ W 600.45 feet, thence N 12°47′08″ E 1499.50 feet, thence N 72°49′52″ W 600.00 feet, thence N 07°08′08″ E 1169.49 feet, thence N 80°44′52″ W 182.88 feet, thence N 14°59′08″ E 429.75 feet, thence N 89°48′52″ W 219.34 feet, thence N 00°11′08″ E 1499.50 feet, thence S 89°48′52″ E 599.50 feet, thence S 00°11′08″ W 1390.07 feet, thence S 80°44′52″ E 1153.05 feet, thence S 14°59′08″ W 511.78 feet, thence S 67°54′52″ E 444.63 feet, thence S 72°20′52″ E 600.00 feet, thence S 80°10′52″ E 600.00 feet, thence S 85°07′52″ E 600.00 feet, thence N 86°21′08″ E 290.00 feet to the east line of section 21, thence with the east line of said section 21 N 00°02′24″ E 2541.98 feet to the point of beginning.

The area described contains approximately 1476.5 acres in San Juan County.

The purpose of the proposed withdrawal and transfer of jurisdiction is to allow the United States Department of Energy perpetual administration over the land as a hazardous material site under the authority of the Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. 7902, *et seq.*

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the BLM Moab Field Manager, at the address noted above.

Comments, including names and street addresses of respondents, and records relating to the proposed withdrawal will be available for public review during regular business hours at the Moab Field Office at the address specified above. Individual respondents may request confidentiality. 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Rights-of-way, leases, permits, cooperative agreements and other discretionary land use authorizations of a temporary nature would continue under the BLM during the 2-year segregation period.

No water rights would be needed to fulfill the purpose of this withdrawal.

Effective on the date of publication of this notice, the lands will be segregated from location and entry under the United States mining laws. The segregative effect of this application will terminate September 25, 2009, unless final withdrawal action is taken or the application is denied or cancelled prior to that date (43 CFR 2310.2). Notice of any action will be published in the **Federal Register**.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal and transfer of jurisdiction. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal and transfer of jurisdiction must submit a written request to the BLM Moab Field Office at the address indicated above within 90 days from the

date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

(Authority: 43 CFR 2310.3–1)

Kent Hoffman,

Deputy State Director, Lands and Minerals.

[FR Doc. E7–18890 Filed 9–24–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

Winter Use Plans, Final Environmental Impact Statement, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway, Wyoming

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement for the Winter Use Plans, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway.

SUMMARY: Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Final Environmental Impact Statement for the Winter Use Plans, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway, Wyoming.

Seven alternative winter use management plans are evaluated in this EIS; alternative 7 is the NPS preferred alternative. Alternative 1 would put into place the provisions of the temporary winter use plan of August 2004, with some modifications. Alternative 2 would prohibit recreational snowmobiling in the parks in favor of snowcoach access. Alternative 3A would close much of Yellowstone to oversnow travel, leaving the South Entrance to Old Faithful route open to such use. A variation of alternative 3 (3B) is the no action alternative—it closes all routes to motorized oversnow recreation. This would be the outcome of the temporary plan, should no new decision be made. Four other alternatives (4, 5, 6, and 7) would allow varying levels of snowmobile and snowcoach access to continue in the parks. Alternative 4 would allow for increased snowmobile use, relative to historic numbers. Alternative 5 would allow for some unguided snowmobile use and would feature seasonal and flexible daily entry limits in Yellowstone. Alternative 6 would provide for plowing some roads in Yellowstone to allow commercial wheeled-vehicle access from West Yellowstone and Mammoth to Old Faithful. Preferred alternative 7 would provide for a balance of snowmobile and snowcoach use and protect park soundscapes, air quality, wildlife and other resources. In Yellowstone, the daily limit on snowmobiles would be 540 snowmobiles per day in Yellowstone. 65 snowmobiles would be allowed per day in Grand Teton and the Parkway. In Yellowstone, all snowmobilers would be required to travel with a commercial guide, and in both parks, all snowcoaches and most snowmobiles would be required to use Best Available Technology (BAT). 83 snowcoaches would be allowed into Yellowstone daily. The East Entrance would remain open for cross-country ski and snowshoe access.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public inspection online at *http://parkplanning.nps.gov/yell,* in the office of Superintendent Suzanne Lewis, PO Box 168, Yellowstone National Park, WY 82190, 307–344–2019 and in the office of Superintendent Mary Gibson Scott, Grand Teton National Park, PO Drawer 170, Moose, WY 83012–0170, 307–739–3300.

FOR FURTHER INFORMATION CONTACT: Kevin Franken, P.O. Box 168, Yellowstone National Park, WY 82190, 307–344–2019, *yell_winter_use@nps.gov.*

Dated: August 30, 2007.

John T. Crowley

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. E7–18935 Filed 9–24–07; 8:45 am]

BILLING CODE 4312–CT–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: September 18, 2007.

Robert Eckart,

Acting Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E7–18879 Filed 9–24–07; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–018]

Government In the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 2, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–919 and 920 (Review) (Welded Large Diameter Line Pipe from Japan and Mexico)—briefing and vote. (The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before October 16, 2007.)
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 19, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–18811 Filed 9–24–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0013]

Office on Violence Against Women; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Semi-Annual Progress Report for the Rural Domestic Violence and Child Victimization Enforcement Grant Program.

The Department of Justice, Office on Violence Against Women (OVW), 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 proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 137, page 39447 on July 18, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 25, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Rural Domestic Violence and Child Victimization Enforcement Grant Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0013. U.S. Department of Justice, Office on Violence Against Women (Rural Program).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 165 grantees of the Rural Program. The primary purpose of the Rural Program is to enhance the safety of victims of domestic violence, dating violence, sexual assault, stalking, and child victimization by supporting projects uniquely designed to address and prevent these crimes in rural jurisdictions. Grantees include States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities.

(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 it will take the approximately 165 respondents (Rural Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Rural Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 330 hours, that is 165 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 18, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–18912 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0012]

Office on Violence Against Women; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for Education and Technical Assistance Grants To End Violence Against Women With Disabilities Program.

The Department of Justice, Office on Violence Against Women (OVW), 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 proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 137, page 39448 on July 18, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 25, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Education and Technical Assistance Grants To End Violence Against Women With Disabilities Program (Disability Grant Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0012. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Disability Grant Program. Grantees include states, units of local government, Indian tribal governments and non-governmental private entities. These grants provide funds for education and technical assistance in the form of training, consultations, and information to organizations and programs that provide services to individuals with disabilities and to domestic violence programs providing shelter or related assistance.

(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 it will take the approximately 18 respondents (Disability Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Disability Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is, 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 18, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–18913 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0011]

Office on Violence Against Women; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for Grantees from the Grants to Support Tribal Domestic Violence and Sexual Assault Coalitions Program.

The Department of Justice, Office on Violence Against Women (OVW) has submitted 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 proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, page 39449–01 on July 18, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 25, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to Support Tribal Domestic Violence and Sexual Assault Coalitions Program (Tribal Coalitions).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0011. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 14 grantees from the Tribal Coalitions Program. The Tribal Coalitions Program grantees include Indian tribal governments that will support the development and operation of new or existing nonprofit tribal domestic violence and sexual assault coalitions in Indian country. These grants provide funds to develop and operate nonprofit tribal domestic violence and sexual assault coalitions in Indian country to address the unique issues that confront Indian victims. The Tribal Coalitions Program provides resources for organizing and supporting efforts to end violence against Indian women.

(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 it will take the 14 respondents (grantees from the Tribal Coalitions Program) approximately one hour to complete a Semi-Annual Progress Report. The Semi-Annual Progress Report is divided into sections that pertain to the different types of activities that grantees may engage in with grant funds. Grantees must complete only those sections that are relevant to their activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 28 hours, that is 14 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 18, 2007.

Lynn Bryant,

Department Clearance Officer, PRA,United States Department of Justice.

[FR Doc. E7–18914 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0014]

Office on Violence Against Women; Agency Information Collection Activities:Extension of a Currently Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review:Semi-Annual Progress Report for the STOP Violence Against Indian Women Discretionary Grant Program.

The Department of Justice, Office on Violence Against Women (OVW), 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 proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 137, page 39447 on July 18, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 25, 2007. This process is conducted in accordance with 5 CFR 1320.10.Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the STOP Violence Against Indian Women Discretionary Grant Program (STOP VAIW Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0014. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 165 grantees of the STOP VAIW Program. The primary goal of the program is to encourage tribal governments to develop and strengthen the tribal justice system's response to violence against Indian women, and to improve the services available to victims of domestic violence, sexual assault, and stalking in Indian country. OVW awards discretionary grants to support the efforts of tribal governments in achieving these goals.

(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 it will take the approximately 165 respondents (STOP VAIW grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A STOP VAIW Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 330 hours, that is 165 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: September 18, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–18915 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 031–2007]

Privacy Act of 1974; System of Records

AGENCY: Justice Management Division, Department of Justice.

ACTION: Modification to System of Records Notice.

SUMMARY: The Justice Management Division, Department of Justice, is making minor editorial changes and updates to a system of records notice entitled ''Department of Justice (DOJ) Employee Transportation Facilitation System, Justice/JMD–017,'' last published in the **Federal Register** on April 24, 2001, at 66 FR 20683.

EFFECTIVE DATE: Public comment and notification to Congress and the Office of Management and Budget are not required for these minor administrative changes. Therefore, the modifications to this system of records will be effective September 25, 2007.

SUPPLEMENTARY INFORMATION: The changes in the text of the notice entitled ''Department of Justice (DOJ) Employee Transportation Facilitation System, Justice/JMD–017'' are shown below.

FOR FURTHER INFORMATION CONTACT: Joo Chung, Counsel, Privacy and Civil Liberties Office, Office of the Deputy Attorney General, on 202–514–4921.

Dated: September 14, 2007.

Lee J. Lofthus,

Assistant Attorney General for Administration.

JUSTICE/JMD–017

SYSTEM NAME:

Department of Justice (DOJ) Employee Transportation Management System.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(2) To the National Archives and Records Administration in records management inspections conducted under the authority of Title 44 U.S.C. 2904 and 2906;

* * * * *

(7) (f) Upon request, either the name(s) of non-federal employees, a list of names or a list which includes their name(s). * * *

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy form and/or electronically.

* * * * *

RETENTION AND DISPOSAL:

*** * * [REMOVE THE LAST TWO SENTENCES OF THIS PARAGRAPH AND INSERT THE TEXT BELOW AS THE LAST SENTENCE OF THE PARAGRAPH.]**

Documents in either paper or electronic form relating to the disbursement of transportation pre-tax benefits to employees shall be destroyed after seven years as approved by the National Archives and Records Administration.

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RECORD ACCESS PROCEDURES:

Except as otherwise noted, employees of the Offices, Boards, and Divisions (listed in appendix I of part 16, 28 CFR) may appear in person or address their requests for access to: Employee Transportation Coordinator, Facilities and Administrative Services Staff, Justice Management Division, NPB Suite 1070, Department of Justice, Washington, DC 20530.

Except as otherwise noted, employees of the bureaus (listed in appendix I of Part 16, 28 CFR) may appear in person or address their requests for access to the following bureau officials, attention Employee Transportation Coordinator: Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue, NW., Washington, DC, 20226.

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[DELETE: Commissioner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536]

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[FR Doc. E7–18817 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8 a.m. to 4:30 p.m. on Monday, October 29, 2007. 8 a.m. to 4:30 p.m. on Tuesday, October 30, 2007.

Place: American Correctional Association, 206 North Washington

Street, Suite 200, Alexandria, Virginia 22314, 1 (800) 222–5646.

Status: Open.

Matters to be Considered: PREA reports; Moss Group; American University and Bureau of Justice Statistics; Report by Mike Thompson of CGS Justice Center; Future Advisory Board Hearings; Concept For National Database Of Providers Of Reintegration Services For Ex-Offenders; Agency Reports; Quarterly Report by Office of Justice Programs; U.S. Parole Commission; American Corrections Association; Federal Judicial Center.

For Further Information Contact: Thomas Beauclair, Deputy Director, 202–307–3106, ext. 44254.

Morris L. Thigpen,

Director.

[FR Doc. 07–4714 Filed 9–24–07; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 19, 2007.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: John Kraemer, OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title: Application for Training Grant.

OMB Number: 1218–0020.

Affected Public: Private Sector: Not-for-profit institutions (grant applicants).

Estimated Number of Respondents: 184.

Estimated Total Burden Hours: 10,166.

Estimated Total Annual Costs Burden: $0.

Description: The application is submitted by non-profit organizations interested in obtaining OSHA training grants. The information collected in this application is used by OSHA to select organizations to receive funds.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title: Welding, Cutting and Brazing (29 CFR Part 1910, Subpart Q).

OMB Number: 1218–0207.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 21,373.

Estimated Total Burden Hours: 5,994.

Estimated Total Annual Costs Burden: $0.

Description: 29 CFR § 1910.255(e) requires that a periodic inspection of resistance welding equipment be made by qualified maintenance personnel, and a certification record generated and maintained. The maintenance inspection ensures that welding equipment is in safe operating condition while the maintenance record provides evidence to employees and OSHA compliance officers that employers performed the required inspections.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title: Rigging Equipment for Material Handling (29 CFR § 1926.251)(b)(1), (b)(6)(ii), (c)(15)(iii), (e)(1)(i), (ii), and (iii), and (f)(2)).

OMB Number: 1218–0233.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 132,737.

Estimated Total Burden Hours: 56,335.

Estimated Total Annual Costs Burden: $0.

Description: The information collection provisions of the 29 CFR 1926.251 specify affixing identification tags or marking on rigging equipment, developing and maintaining inspection records, and retaining proof-testing certificates. The purpose of each of these requirements is to prevent employees from using defective or deteriorated equipment, thereby reducing their risk of death or serious injury caused by equipment failure during material handling.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title: Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR § 1910.157(e)(3)).

OMB Number: 1218–0238.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 138,038.

Estimated Total Burden Hours: 69,019.

Estimated Total Annual Costs Burden: $19,878,208.

Description: The Standard for Portable Fire Extinguishers at 29 CFR 1910.157(e)(3) specifies that employers must subject each portable fire extinguisher to an annual maintenance inspection and record the date of the inspection. In addition, this provision requires employers to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to OSHA on request. This recordkeeping requirement assures employees and Agency compliance officers that portable fire extinguishers located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence to OSHA compliance officers during an

inspection that the employer performed the required maintenance checks on the portable fire extinguishers.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–18767 Filed 9–24–07; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Community-Based Job Training Grants; Solicitation for Grant Applications (SGA) SGA/DFA–PY 07–01; Amendment Number 1

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Amendment.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** of August 8, 2007, announcing the availability of funds and solicitation for grant applications for Community-Based Job Training Grants to support workforce training for high-growth/high-demand industries through the national system of community and technical colleges. This amendment will make changes to the August 8 document by removing the requirement that 50% of the grant funds must be spent on tuition in Section III Eligibility Information and Other Grant Specifications; updating the data required in the one- to three-page summary of projected outcomes in Section IV Application and Submission Information; replacing outcomes associated with the 50% requirement with new outcomes and clarifying and correcting the total number of points the section is worth in the Description of Outcomes section in Section V Application Review Information; and extending the closing date for the Solicitation to October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Melissa Abdullah, Grants Management Specialist, Telephone (202) 693–3346.

Amendment

In the **Federal Register** of August 8, 2007, in FR Volume 72, Number 152, the solicitation is hereby amended with the following:

1. On page 44574, extend the closing date of this Solicitation to October 31, 2007.

2. On page 44581, in the middle column, Section III.C.2. Required Capacity Building and Training Activities, delete the following text:

In all applications, at least 50 percent of the proposed budget must be for tuition and related training costs for a substantive number of students enrolled in the grant training program. Related training costs include, but are not limited to, books, supplies, tools, and uniforms. Grantees are strongly encouraged to leverage other resources to cover the tuition costs for the students trained with grant funds to expand the number of individuals trained with the grant. Possible sources of leveraged resources for tuition include, but are not limited to, Pell Grants, student loans, and employer tuition reimbursement. Grantees may charge tuition and related training costs to students enrolled in the training program whose tuition is not covered by the grant; however, the leveraging of resources described above is strongly encouraged. Grantees must track and report performance outcomes on any individuals trained using grant dollars, either in whole or in part. Where grant dollars are combined with other leveraged resources to cover tuition for an individual being trained, that individual must be tracked for purposes of performance as well.

Added to this section is the following text:

A component of all grants must be direct training costs, which include, but are not limited to: Faculty costs, including salaries and fringe benefits; in-house training staff; support staff costs such as lab or teaching assistants; classroom space, including laboratories, mock-ups or other facilities used for training purposes; and books, materials, and supplies used in the training course, including specialized equipment used in the training course. Grantees are strongly encouraged to leverage other resources to cover the tuition costs for the students trained under the grant. Possible sources of leveraged resources for tuition include, but are not limited to, Pell Grants; Workforce Investment Act resources, including Individual Training Accounts; and employer tuition reimbursement. Applicants must also describe how tuition for students participating in the program will be covered, including tuition charged to students, funding made available through the workforce investment system, business paid training, or other sources.

For reference, direct training costs are the costs associated with the actual provision of a training course as opposed to the capacity building costs associated with the development of training capabilities or curriculums. Direct training costs do NOT include costs that support the college in general, such as fees to support student activities, the library, gym or recreation center, etc., which may be covered through some other mechanism, such as student fees. Indirect training costs may include the applicable share of the Institution's indirect costs (overhead) and library or other student activity fees associated with the operation of the Institution. Both direct and indirect training costs must be allowable costs under the applicable OMB circular. All direct and indirect training costs should be linked to a specific course or curriculum as specified in the proposal or the statement of work.

3. Additional references to the 50% requirement are deleted on: Page 44583 column 1 (Section IV.A), Page 44586 column 1 (Section V.A.3. Effective, Innovative Training and Capacity Building Strategies)

4. On page 44583, middle column, Section IV.A, in the one- to three-page listing of all projected outcomes list, delete:

- The number of individuals trained using grant dollars, including individuals trained as a result of leveraging of resources (e.g. training is paid in whole or in part through sources other than the grant or tuition, including Pell Grants, student loans, employer tuition reimbursement, and Workforce Investment Act training resources such as customized training, ITAs, or pilot CAAs);
- The number of individuals trained without use of grant dollars, such as those who pay tuition.

Replace this text with the following bullets:

- The number of individuals who will participate in training activities during the life of the grant. Participation in training activities includes individuals whose training activity is supported in whole or in part by direct training costs under the grant. This projection also includes individuals participating in the training activity who benefit from the products, services, and activities funded by the grant for capacity building, but whose training activity is not funded by the grant.
- The number of individuals who will complete training activities during the life of the grant regardless of the source of the funds paying for the training activities.
- The number of individuals to participate in training activities during the life of the grant whose participation is supported by the grant either through direct training costs or through tuition remission, scholarship, or other direct payment by the grant.

Applicants should note that they must include projections for numbers of students to be enrolled in and expected to complete training during the life of the grant. If awarded a grant, applicants MUST be able to track and report to ETA their success at meeting these projections on a quarterly basis regardless of whether the grant pays for the direct training of these individuals. This requirement is considered a condition of grant award.

5. Regarding training and capacity building plan outcomes and students trained using grant dollars:

a. On page 44586, in the right hand column, Part V. A. 4. b. Training, delete the following text: the number of individuals trained using grant dollars, including individuals trained as a result of leveraging of resources (e.g. training is paid in whole or in part through sources other than the grant or tuition, including Pell Grants, student loans, employer tuition reimbursement, and Workforce Investment Act training resources such as customized training, ITAs, or pilot CAAs); the number of individuals trained

without use of grant dollars, such as those who pay tuition.

In place of the above deletion, add to Section V.A.4.b.: the number of individuals participating in training activities under the grant regardless of the source of the funds paying for the training activities.

b. On page 44586, in the middle column, Part V. 4. Outcomes, Benefits, and Impact, there is confusion as to the total number of points this section is worth because of formatting issues in the Solicitation. This amendment provides clarification that the total points available for this section are 30. The Solicitation is hereby amended to reflect that:

Part V.4. Outcomes, Benefits, and Impact is worth a total of 30 points.

Part V. 4. a. Description of Outcomes is worth a total of 20 points.

4.a.1. (formerly 4.b.) Training: 10 points.

4.a.2. (formerly 4.c) Capacity Building: 10 points.

Part V 4. b (formerly 4.d). Appropriateness of Outcomes is worth 10 points.

c. On page 44586, in the right hand column, Part V. A. 4. c. Capacity Building, add the following sentence: Please note, in their projected impact numbers, applicants must include a projection of the impact that the capacity building activities will have in the long-term (beyond the life of the grant) on the number of individuals trained by the college in the program areas enhanced by the grant.

6. On page 44581, in the right hand column, Section III.C.2. Required Capacity Building and Training Activities, and on page 44586, in the left hand column, Section V.A.3 Training and Capacity building Plan, the first bullet: Effective, Innovative Training and Capacity Building Strategies, add the following text:

Applicants should also describe how their capacity building activities will ensure there will be demand for the program developed under the grant. This description should include outreach and recruitment strategies for new students and trainees and include roles of the industry, workforce system, and education partners in the outreach and recruitment strategies.

Signed at Washington, DC, this 12th day of September 2007.

Eric Luetkenhaus,

Grant Officer, Employment & Training Administration.

[FR Doc. E7–18826 Filed 9–24–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Certification of Funeral Expenses (LS–265). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 26, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, E-mail: *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. The Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. The LS–265 has been provided for use in submitting the funeral expenses for payment. This information collection is currently approved for use through April 30, 2008.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval of the extension of this currently approved information collection in order to carry out its responsibility to certify the amount of funeral expenses incurred in the case.

Type of Review: Extension of a currently approved collection of information.

Agency: Employment Standards Administration.

Title: Certification of Funeral Expenses.

OMB Number: 1215–0027.

Agency Number: LS–265.

Affected Public: Business or other for-profit.

Total Respondents: 195.

Total Annual Responses: 195.

Estimated Total Burden Hours: 49.

Time per Response: 15 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $80.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 20, 2007.

Hazel M. Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E7–18853 Filed 9–24–07; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Comparability of Current Work to Coal Mine Employment (CM–913). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 26, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, E-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 *et seq.*, provides for the payment of benefits to coal miners who have contracted black lung disease as a result of coal mine employment, and their dependents and survivors. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor is asked to complete a CM–913 to compare coal mine work to non-coal mine work. This employment information along with medical information is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment. The CM–918 and the CM–1093 are obsolete due to limited use. This information collection is currently approved for use through April 30, 2008.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval for the extension of this currently approved information collection in order to carry out its responsibility to determine eligibility for black lung benefits.

Type of Review: Extension of a currently approved collection of information.

Agency: Employment Standards Administration.

Titles: Comparability of Current Work to Coal Mine Employment.

OMB Number: 1215–0056.

Agency Numbers: CM–913.

Affected Public: Individuals or households.

Average Time per Response: 30 minutes.

Total Respondents: 1,350.

Total Annual Responses: 1,350.

Estimated Total Burden Hours: 675.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $594.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 20, 2007.

Hazel M. Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E7–18854 Filed 9–24–07; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–067)]

Aerospace Safety Advisory Panel Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, October 12, 2007, 9 a.m. to 11 a.m. Eastern Daylight Time.

ADDRESSES: Ohio Aerospace Institute, NASA Safety Center, Presidents Room, 22800 Cedar Point Road, Brook Park, OH 44142.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, AerospaceSafety Advisory Panel Executive Director, National Aeronautics and SpaceAdministration, Washington, DC 20546, (202) 358–0732.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will hold its Quarterly Meeting. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include Safety Organization and Management, Human Capital, Safety Culture, Orbital Debris Policy, Constellation Program Safety, Columbia Accident Investigation Board and Return to Flight Progress, Human Rating Requirements, and Astronaut Assessment. The meeting will be open to the public up to the seating capacity of the room. Visitors will be required to sign-in with the receptionist at the front desk.

During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch on (202) 358–0914 at least

24 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accomodate the scheduling priorities of the key participants.

Dated: September 18, 2007.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E7–18800 Filed 9–24–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–068)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council. The agenda for the meeting includes updates from each of the Council committees, including discussion and deliberation of potential recommendations. The Council Committees address NASA interests in the following areas: Aeronautics, Audit and Finance, Space Exploration, Human Capital, Science, and Space Operations.

DATES: Thursday, October 18, 2007, 8 a.m.–4 p.m.

ADDRESSES: Chesapeake Room, Point Plaza Hotel, 950 J. Clyde Morris Boulevard, Newport News, VA 23601.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Iademarco, Designated Federal Official, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1318.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: September 18, 2007.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E7–18810 Filed 9–24–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL COUNCIL ON DISABILITY

International Watch Advisory Committee Meetings (Conference Calls)

AGENCY: National Council on Disability (NCD).

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, NCD gives notice that the International Watch Advisory Committee will hold meetings on the dates and times noted below. The Committee will meet by conference call. All meetings are open to the public.

Time and Dates: 12 noon, Eastern Time

November 1, 2007, January 3, 2008, March 6, 2008, May 1, 2008, July 3, 2008, September 4, 2008.

Place: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC.

Status: All parts of these conference calls will be open to the public. Those interested in participating on conference calls should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for each conference call.

Agendas: Roll call, announcements, overview of accomplishments, planning, reports, updates, new business, adjournment.

FOR FURTHER INFORMATION CONTACT: Joan M. Durocher, Senior Attorney Advisor and Designated Federal Official, National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *jdurocher@ncd.gov* (e-mail).

Accommodations: Those needing reasonable accommodations should notify NCD at least two weeks before this meeting.

International Watch Advisory Committee Mission: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Dated: September 12, 2007.

Michael C. Collins,

Executive Director.

[FR Doc. E7–18889 Filed 9–24–07; 8:45 am]

BILLING CODE 6820–MA–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts; Submission for OMB Review; Comment Request

September 17, 2007.

The National Endowment for the Arts, on behalf of the Federal Council on the Arts and the Humanities, has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts' Indemnity Administrator, Alice Whelihan (202/682–5574).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503 (202/395–4718), within thirty days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

—Enhance the quality, utility and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: Application for Indemnification.

OMB Number: 3135–0094.

Frequency: renewed every three years.

Affected Public: Non-profit, tax exempt organizations, individuals and governments.

Number of Respondents: 50 per year.

Estimated Time per Respondent: 45 hours.

Estimate Cost per Respondent: $1,800.

Total Burden Hours: 2,250.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $125,000.

Description: This application form is used by non-profit, tax-exempt organizations (primarily museums), individuals and governmental units to apply to the Federal Council on the Arts and the Humanities (through the National Endowment for the Arts) for indemnification of eligible works of art and artifacts, borrowed from abroad for exhibition in the United States, or sent from the United States for exhibition abroad. The indemnity agreement is backed by the full faith and credit of the United States. In the event of loss or damage to an indemnified object, the Federal Council certifies the validity of the claim and requests payment from Congress. 20 U.S.C. 973 *et seq.* requires such an application and specifies information which must be supplied. This statutory requirement is implemented by regulation at 45 CFR 1160.4.

Murray Welsh,

Director Administrative Services.

[FR Doc. E7–18769 Filed 9–24–07; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Submission for OMB Review, Generic Clearance to Collect Data to Evaluate IMLS Programs, Trends in IMLS Grants, and Customer Satisfaction

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before October 25, 2007.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Dr. Mary Downs, Research Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Dr. Downs can be reached by telephone: 202–653–4682; fax: 202–653–8625; or e-mail: *mdowns@imls.gov.*

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20 U.S.C. 9101, *et seq.* Section 9108 of the Act supports IMLS's data collection and analysis role. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

This proposed generic clearance is essential to IMLS's ability to improve services, measure progress in achieving the goals articulated in the agency's strategic plan, understand trends in museum and library service, and in general be fully responsive to federal accountability requirements.

Abstract: This generic clearance will enable IMLS to collect evaluative and customer satisfaction data from applicants, grantees and participants in IMLS programs. IMLS intends to carry out the information collections in Fiscal Years 2008–2010 at a rate of nine (9) each year.

Current Actions: This notice proposes clearance of the Generic Clearance to Collect Data to Evaluate IMLS Programs, Trends in IMLS Grants, and Customer Satisfaction. The 60-day Notice for this proposed generic clearance was published in the **Federal Register** on June 14, 2007 (FR Vol. 72, no. 114, pgs. 32920–32921.) No comments were received.

OMB Number: n/a.

Agency Number: 3137.

Affected Public: Federal, state and local governments, public libraries, state library agencies, museums & archives, and related professional and service organizations.

Number of Respondents: 13,724.

Frequency: One time each for each survey.

Burden hours per respondent: 20 minutes; Total burden hours: 2,820.32.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: September 20, 2007.

Barbara G. Smith,

E-Projects Officer, Office of the Chief Information Officer.

[FR Doc. E7–18927 Filed 9–24–07; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

SES Performance Review Board

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the Performance Review Board for the National Endowment for the Arts. This notice supersedes all previous notices of the PRB membership of the Agency.

DATES: Upon publication.

FOR FURTHER INFORMATION CONTACT: Craig McCord, Director of Human Resources, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 627, Washington, DC 20506, (202) 682–5473.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the appointing authority relative to the performance of the senior executive.

The following persons have been selected to serve on the Performance Review Board of the National Endowment for the Arts:

Eileen B. Mason, Senior Deputy Chairman

Laurence M. Baden, Deputy Chairman for Management and Budget

Tony Chauveaux, Deputy Chairman for Grants and Awards

Ann Guthrie Hingston, Director of the Office of Government Affairs

Michael R. Burke, Chief Information Officer

Sunil Iyengar, Deputy Chairman for Research and Analysis

Murray R. Welsh,

Director of Administrative Services, National Endowment for the Arts.

[FR Doc. E7–18768 Filed 9–24–07; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

Agenda

TIME AND DATE: 9:30 a.m., Tuesday, October 2, 2007.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

775E: Aircraft Accident Report—Runway Overrun and Collision, Southwest Airlines (SWA) flight 1248, Boeing 737–74H, N471WN, Chicago Midway International Airport (MDW), Chicago, Illinois, December 8, 2005.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Chris Bisett at (202) 314–6305 by Friday, September 28, 2007.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page *http://www.ntsb.gov.*

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: September 21, 2007.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 07–4733 Filed 9–21–07; 1:11 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 04000341]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC–133, for Unrestricted Release of the Defense Logistics Agency's Facility in Hillsborough, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and Finding of No Significant Impact for license amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5393; or by e-mail: *drl1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Source Materials License No. STC–133. This license is held by Defense Logistics Agency (the Licensee). The license authorizes the Licensee to use licensed material at multiple sites in different States. At issue here is the Licensee's Defense National Stockpile Center Somerville Depot, located at 152 U.S. Highway Route, Hillsborough, New Jersey (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use, but would not involve termination of the license. The Licensee requested this action in a letter dated January 3, 2007. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's January 3, 2007, license amendment request, resulting in release of the Facility for unrestricted use in accordance with 10 CFR 20.1402. License No. STC–133 was issued on July 27, 1983, pursuant to 10 CFR Part 40, and has been amended periodically since that time. With respect to the Facility, the license authorized the Licensee to use unsealed source material for purposes of storage, sampling, repackaging, and transferring materials.

The Facility is situated on 77 acres of land and consists of warehouses and office space. The Facility is located in a mixed industrial area. Within the Facility, use of licensed materials was confined to a decontamination trailer and warehouses 1, 3, and 4. The area of use totaled approximately 50,000 square feet.

On September 16, 2004, the Licensee ceased licensed activities at the Facility, and initiated a survey and decontamination actions there. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: natural uranium and thorium. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by developing derived concentration guideline levels (DCGLs) for its Facility. The Licensee conducted site-specific dose modeling using input parameters specific to the Facility and a conservative assumption that all residual radioactivity is in equilibrium.

Federal Guidance Report Number 13 was used to modify the dose conversion factors because it is based on an improved, more realistic dosimetry model. The licensee selected adults as the critical age group as the expected future use of this facility will be industrial. Based on the type of building, railroad distribution, and truck access, there is no compelling evidence to indicate that the building will be used for anything other than industrial activities. The residual radioactivity is confined to the structures of the Facility. Since there is no land or water residual radioactivity, the building occupancy scenario may appropriately be applied to the Facility. The Facility is located in an area zoned as Economic Development which includes a variety of uses. Buildings previously sold in the area have been converted to light industrial uses. The buildings would need substantial modification to convert to residential housing. The Licensee thus determined the maximum amount of residual radioactivity on building surfaces, equipment, and materials that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The NRC reviewed the Licensee's methodology and proposed DCGLs, and concluded that the proposed DCGLs are acceptable for use as release criteria at the Facility (this approval was published October 16, 2006 in the **Federal Register** at pages 60770 through 60772).

The NRC staff conducted a survey at the Facility on July 13, 2006, and none of the staff's results exceeded the DCGLs that were later approved for use at the Facility.

The Licensee conducted a final status survey on July 11–13 and 25–27, 2006, August 2, 2006, and November 14–16, 2006 covering the areas of use as stated in the Final Status Survey Plan, dated February 2006. The final status survey results were enclosed with the Licensee's amendment request dated January 3, 2007, and an additional information letter dated February 6, 2007. The Licensee's final status survey results were below the approved DCGLs, and are thus acceptable. The static surveys showed that the average readings in all the survey units are less than the minimum detectable activity for the instrumentation used. Based on the minimum detectable activity for static measurements, the site residual activity will result in less than 5 millirem per year dose.

Based on its own survey results, and its review of the Licensee's final survey report, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey results to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified, and the NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 40.42(d), requiring that decommissioning of source material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of New Jersey's Department of Environmental Protection (NJDEP) for review on February 20, 2007. By letter dated March 22, 2007, the NJDEP submitted two comments on the proposed release of the Facility for unrestricted use:

(1) The NJDEP's regulations at N.J.A.C. 7:28–12 considers unrestricted use as any use that does not require the continued use of engineering or institutional controls in order to meet established standards. The NJDEP wants the Licensee to have a deed restriction placed on the Facility property limiting future use of the site to industrial or commercial purposes.

(2) The NJDEP also wants the licensee to demonstrate that the final status survey results will meet the New Jersey release criterion of 15 millirem per year.

The NRC staff finds that the proposed action can go forward notwithstanding the NJDEP comments. Regarding the first comment, this release is unrestricted as specified in 10 CFR 20.1402 in that there are no engineering or institutional controls required in order to meet established standards. The licensee's use of the DandD computer code default values, updated with the Federal Guidance Report 13 values for dose conversion factors, required them to consider age groups other than adults. As reflected above in the impacts assessment, the NRC staff finds that, the critical group here is adult light industrial workers, because the warehouse buildings would need substantial modification to convert them to residential housing. Since the conditions at the site meet the site specific DCGL for the critical group, an unrestricted release is approved. In addition, putting the requested deed restriction into place now would not make 10 CFR 20.1403, ''Criteria for license termination under restricted conditions,'' applicable here. While an earlier Licensee submittal (dated April 26, 2006, [ML061220479]) contained an April 17, 2006 memorandum from the headquarters of the Defense Logistics Agency indicated that the Licensee would be willing to put the requested deed restriction into place, the NRC staff finds that no deed restriction will be necessary as a prerequisite to taking the proposed action. Placing such a restriction on the property would not be consistent with unrestricted use under 10 CFR 20.1402.

Regarding the NJDEP's second comment above, the NRC staff recognizes that the State of New Jersey has established a 15 millirem per year standard (under NJDEP's regulations at N.J.A.C. 7:28–12). The NRC has previously advised the NJDEP that these regulations raise preemption concerns [ML003763858]. States are preempted from regulating NRC-licensed materials for the purposes of radiation protection unless they enter into a formal agreement with the NRC. To date, New Jersey has not done so. Moreover, as indicated above, the Licensee has developed DCGLs acceptable to the NRC which support the 25 millirem per year standard set forth in 10 CFR 20.1402, and the staff must implement these DCGLs for the purpose of evaluating the proposed action.

The NRC staff has further determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination;''
3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;''
5. Defense Logistics Agency, ''Radiological Historical Site Assessment Report, Defense National Stockpile Center, Somerville Depot, Hillsborough, NJ'' dated January 2006 [ML060730422];
6. ''Final Status Survey Plan, DNSC, Somerville Depot, Hillsborough, NJ'' dated February 2006 [ML060730417].
7. Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC–133 Authorizing the Use of Site-Specific Derived Concentration Guideline Levels When Determining if Unrestricted Release Criteria Has Been Met for the Defense Logistics Agency, Defense Nuclear Supply Center Depot in Somerville, NJ'' published in the **Federal Register** Volume 71, Number 199 on October 16, 2006, pages 60770 and 60772;
8. Defense Logistics Agency, Amendment Request letter dated January 3, 2007 containing the ''Final Status Survey Report, DNSC, Somerville Depot, Hillsborough, NJ'' dated December 2006 [ML070050120];
9. Defense Logistics Agency, Deficiency Response Letter dated February 6, 2007 [ML070380535];
10. State of New Jersey, Department of Environmental Protection Letter dated March 22, 2007 [ML070950546];
11. Defense Logistics Agency, Deficiency Response Letter dated April 26, 2006 [ML061220479];
12. Letter to the State of New Jersey Regarding Proposed Rule, Soil Remediation Standards for Radioactive Materials [ML003763858]; and
13. State of New Jersey, Department of Environmental Protection Letter dated July 20, 2006 [ML062070300].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I 475 Allendale Road, King of Prussia this 18th day of September 2007.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E7–18872 Filed 9–24–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Notice of Availability of the Draft Supplement 32 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, and Public Meeting for the License Renewal of Wolf Creek Generating Station, Unit 1

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a draft plant-specific supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating license NPF–42 for an additional 20 years of operation for the Wolf Creek Generating Station (WCGS), Unit 1. WCGS is located in Coffey County, Kansas, approximately 75 miles southwest of Kansas City. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

The draft Supplement 32 to the GEIS is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://adamswebsearch.nrc.gov/dologin.htm.* The Accession Number for the draft Supplement 32 to the GEIS is ML072540026. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or via e-mail at *pdr@nrc.gov.* In addition, the Coffey County Library, Burlington Branch, located at 410 Juniatta Street, Burlington, KS 66839, has agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC

staff. To be considered, comments on the draft supplement to the GEIS and the proposed action must be received by December 26, 2007; the NRC staff is able to assure consideration only for comments received on or before this date. Comments received after the due date will be considered only if it is practical to do so. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Room T–6D59, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by e-mail at *WolfCreekEIS@nrc.gov.* All comments received by the Commission, including those made by Federal, State, local agencies, Native American Tribes, or other interested persons, will be made available electronically at the Commission's PDR in Rockville, Maryland, and through ADAMS.

The NRC staff will hold a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held on November 8, 2007, at the Coffey County Library, Burlington Branch, 410 Juniatta St., Burlington, KS 66839. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Christian Jacobs, the NRC Environmental Project Manager at 1–800–368–5642, extension 3874, or by e-mail at *WolfCreekEIS@nrc.gov* no later than November 1, 2007. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual, oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to the attention of Mr. Christian Jacobs no later than October 25, 2007, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION CONTACT: Mr. Christian Jacobs, Environmental Branch B, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Mail Stop O–11F1, Washington, DC 20555–0001. Mr. Jacobs may be contacted at the aforementioned telephone number or e-mail address.

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

For the Nuclear Regulatory Commission.

Samuel Hernandez-Quinones,

Acting Branch Chief, Environmental Branch B, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E7–18874 Filed 9–24–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Federal Register Notice

Agency Holding the Meetings: Nuclear Regulatory Commission.

DATE: Weeks of September 24, October 1, 8, 15, 22, 29, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 24, 2007

There are no meetings scheduled for the Week of September 24, 2007.

Week of October 1, 2007—Tentative

Monday, October 1, 2007

1:30 p.m.
Periodic Briefing on Security Issues (Closed—Ex. 1 & 3)

Wednesday, October 3, 2007

2 p.m.
Briefing on NRC's International Programs, Performance, and Plans (Public Meeting) (Contact: Karen Henderson, 301–415–0202)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of October 8, 2007—Tentative

There are no meetings scheduled for the Week of October 8, 2007.

Week of October 15, 2007—Tentative

There are no meetings scheduled for the Week of October 15, 2007.

Week of October 22, 2007—Tentative

Wednesday, October 24, 2007

9:30 a.m.
Periodic Briefing on New Reactor Issues, Part 1 (Public Meeting) (Contact: Roger Rihm, 301–415–7807)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1:30 p.m.
Periodic Briefing on New Reactor Issues, Part 2 (Public Meeting) (Contact: Roger Rihm, 301–415–7807).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of October 29, 2007—Tentative

There are no meetings scheduled for the Week of October 29, 2007.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *REB3@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting

schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: September 19, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–4732 Filed 9–21–07; 1:11 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 30, 2007 to September 12, 2007. The last biweekly notice was published on September 11, 2007 (72 FR 51852).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention

at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Detroit Edison Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: July 20, 2007.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.7.5 to add an Action Statement for two inoperable control building chiller (CBC) subsystems. The proposed new Action Statement would allow 72 hours to restore one CBC subsystem to operable status and require verification once every 4 hours that control room temperature remains less than 90 °F. The proposed changes are consistent, with certain variations, with TS Task Force (TSTF) Change Traveler TSTF–477, Revision 3, ''Adding an Action Statement for Two Inoperable Control Room Air Conditioning Subsystems.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration by a reference to a generic analysis published in the **Federal Register** on December 18, 2006 (71 FR 75774), which is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change is described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF–477 adds an action statement for two inoperable control room subsystems.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes add an action statement for two inoperable control room subsystems. The equipment qualification temperature of the control room equipment is not affected. Future changes to the Bases or licensee-controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, ''Changes, test and experiments,'' to ensure that such changes do not result in more than a minimal increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed changes add an action statement for two inoperable control room subsystems. The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal p[l]ant operation. The requirements in the TS continue to require maintaining the control room temperature within the design limits.

Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed changes add an action statement for two inoperable control room subsystems. Instituting the proposed changes

will continue to maintain the control room temperature within design limits. Changes to the Bases or license[e-] controlled document are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that the control room temperature will be maintained within design limits.

The proposed changes maintain sufficient controls to preserve the current margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Marjan Mashhadi, Florida Power & Light Company, 801 Pennsylvania Avenue, Suite 220, Washington, DC 20004.

NRC Acting Branch Chief: Travis L. Tate.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 17, 2007, as supplemented by letter dated August 7, 2007.

Description of amendment request: The proposed amendment would revise the facility operating license (FOL), paragraph 2.C, and technical specifications (TS) 3.7.2 and TS 5.5 for Grand Gulf Nuclear Station, Unit 1.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible amendments to revise the plant specific TS, to strengthen TS requirements regarding control room envelope (CRE) habitability by changing the action and surveillance requirements associated with the limiting condition for operation operability requirements for the CRE emergency ventilation system, and by adding a new TS administrative controls program on CRE habitability, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on January 17, 2007 (72 FR 2022). The licensee affirmed the applicability of the model NSHC determination in its application dated July 17, 2007, as supplemented by letter dated August 7, 2007.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves NSHC.

Attorney for licensee: Terence A. Burke, Associate General Council—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Thomas G. Hiltz.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3 (Waterford 3), St. Charles Parish, Louisiana

Date of amendment request: August 16, 2007.

Description of amendment requests: A change is proposed to the Waterford 3 Control

Room Emergency Air Filtration System technical specifications (TSs) using the Nuclear Regulatory Commission (NRC) notice of availability regarding Control Room Envelope (CRE) Habitability using the Consolidated Line Item Improvement Process. The proposed amendment is consistent with the NRC approved Industry/Technical Specification Task Force (TSTF) change to the Standard Technical Specifications (STS), TSTF–448, Revision 3, ''Control Room Habitability.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible amendments adopting TSTF–448, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on January 17, 2007 (72 FR 2022). The licensee affirmed the applicability of the following NSHC determination in its application dated August 16, 2007.

TSTF–448, Revision 3 is formatted to the Improved Technical Specification (ITS) plants while the Waterford 3 TSs are based on the CE standard technical specifications. Therefore, the information contained in TSTF–448, Revision 3 has been modified to the Waterford 3 TS format.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company,2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Branch Chief: Thomas G. Hiltz.

FPL Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 29, 2007.

Description of amendment request: The proposed amendment would change Technical Specifications (TS) sections 3.7.4 and 5.5.13 to strengthen TS requirements regarding control building envelope (CBE) habitability. The proposed amendment would change the action and surveillance requirements associated with the limiting condition for operation operability requirements for the CBE standby filter unit and add a new TS administrative controls program on CBE habitability. The proposed changes to the TS and associated Bases are consistent with certain exceptions with standard technical specifications (STS) as revised by TS Task Force (TSTF) change traveler TSTF–448, Revision 3, ''Control Room Envelope Habitability'' to the extent that the amendment request adopts by reference certain model TSTF–448 content, where applicable.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible amendments adopting TSTF–448, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the Consolidated Line Item Improvement Process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on January 17, 2007 (72 FR 2022).

The licensee affirmed the applicability of the following NSHC determination in its application dated June 29, 2007.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Marjan Mashhadi, Florida Power & Light Company, 801 Pennsylvania Avenue, Suite 220, Washington, DC 20004.

NRC Acting Branch Chief: Travis L. Tate.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: July 30, 2007.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by adding a new Surveillance Requirement (SR) 3.8.2.2 that would be applicable when onsite electrical power is supplied to a unit via backfeed through the main transformer, and the unit is in either Mode 5 or Mode 6, or during movement of irradiated fuel. The proposed SR would correct a non-conservatism in the TS and will assure the capability to transfer the required safety-related loads from the backfeed source to the qualified offsite circuit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The proposed change will add a new Technical Specification Surveillance Requirement applicable during shutdown conditions when a backfeed configuration is used to provide power from the offsite transmission network to required safety equipment via the main transformer. The new Surveillance Requirement will require that portions of an existing Surveillance Requirement be met. If not met, the existing Surveillance Requirement must be performed before establishing a backfeed configuration. It is highly unlikely that the proposed change will necessitate performance of the existing Surveillance Requirement more frequently than is currently required. Even if more frequent performance of the existing Surveillance Requirement were required, its performance would not significantly increase the probability of a loss of offsite power. Consequently, there is no significant change in the likelihood of any accident associated with verifying the existing Surveillance Requirement has been met. Therefore, the probability of occurrence of a previously evaluated accident will not be significantly increased.

The verifications required by the new Surveillance Requirement will assure that a unit's required safety-related equipment can be transferred to a qualified offsite circuit while the equipment is being provided power from the offsite transmission network using a backfeed configuration while the unit is shutdown or while irradiated fuel is [being] moved. This will provide assurance that the systems needed to mitigate the consequences of the accidents in these conditions will be provided with electrical power if the systems are needed to perform their specified safety function. Therefore, the consequences of a previously evaluated accident will not be significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The addition of a new Technical Specification Surveillance Requirement to verify that an existing Surveillance Requirement has been met, or to perform that Surveillance Requirement if not met, would not create the possibility of a new or different kind of accident because the Surveillance Requirement has previously existed and previously been performed. Therefore, the proposed change does not involve any new systems, structures, or components, or any different mode of operation of any existing systems, structures, or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety associated with the proposed change involves the availability of offsite electrical power to support required safety equipment when a unit is shut down or during the movement of irradiated fuel. The proposed change provides assurance that the single required qualified offsite circuit from the transmission network remains available while the required safety equipment is powered by a different circuit from that network. Consequently, the proposed change does not reduce the margin of safety provided by the required qualified offsite circuit, and enhances the margin of safety by acknowledging use of an additional offsite circuit.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Kimberly Harshaw, Esquire, One Cook Place, Bridgman, MI 49106

NRC Acting Branch Chief: Travis Tate.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 10, 2007.

Description of amendment request: The proposed change to Technical Specification 2.1.1.2 will revise two recirculation loop and single recirculation loop safety limit minimum critical power ratio (SLMCPR) values to reflect results of a cycle-specific calculation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Four accidents have been evaluated previously as reflected in the CNS [Cooper Nuclear Station] Updated Safety Analysis Report (USAR). These four accidents are (1) loss-of-coolant, (2) control rod drop, (3) main steamline break, and (4) fuel handling. The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. Changing the SLMCPR does not increase the probability of an evaluated accident. The change does not require any physical plant modifications to the plant or any components, nor does it require a change in plant operation. Therefore, no individual precursors of an accident are affected.

The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. This proposed change makes no modification to the design or operation of the systems that are used in mitigation of accidents. Limits have been established, consistent with NRC approved methods, to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed change to the value of the SLMCPR continues to conservatively establish this safety limit such that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences.

Based on the above NPPD [Nebraska Public Power District] concludes that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Creation of the possibility of a new or different kind of accident from an accident previously evaluated would require creation of precursors of that accident. New accident precursors may be created by modification of the plant configuration or changes in how the plant is operated. The proposed change does not involve a modification of the plant configuration or in how the plant is operated. The proposed change to the SLMCPR assures that safety criteria are maintained.

Based on the above, NPPD concludes that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The value of the proposed SLMCPR provides a margin of safety by ensuring that no more than 0.1% of the rods are expected to be in boiling transition if the Minimum Critical Power Ratio limit is not violated. The proposed change will ensure the appropriate level of fuel protection is maintained. Additionally, operational limits are established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria (i.e., that at least 99.9% of the fuel rods do not experience transition boiling during normal operation as well as anticipated operational occurrences) are met.

Based on the above, NPPD concludes that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Branch Chief: Thomas G. Hiltz.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 16, 2007.

Description of amendment request: The proposed amendment revises Technical Specification 5.5.6, ''Inservice Testing Program,'' to allow a one-time extension of the five-year frequency requirement for setpoint testing of safety valve MS–RV–70ARV.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The function of SRVs [safety relief valves] and SVs [safety valves] is to prevent overpressurization of the reactor coolant system (RCS) during transients and abnormal operation that could cause increases in RCS pressure. They are also used to depressurize the RCS when needed to allow injection of water from the high-volume, low-pressure Emergency Core Cooling System (ECCS) Low Pressure Coolant Injection mode of the Residual Heat Removal System into the reactor pressure vessel (RPV) as part of mitigation of an accident. Actuation or failure to actuate of a SRV or SV is not an initiator of any accident previously evaluated. Thus, this proposed amendment would not result in a significant increase in the probability of an accident previously evaluated.

A range or tolerance of plus-or-minus three percent of the setpoint pressure is acceptable for the results of setpoint testing. A 90-day extension of the interval for setpoint testing of one SV is not expected to result in actuation of the SV outside of its acceptable setpoint range. However, even if the single SV whose test interval is being extended did actuate outside of its acceptable range, it is not expected that this would result in a significant degradation in the ability of the Nuclear System Pressure Relief System to perform its safety function, since the remaining eight SRVs and two other SVs would be unaffected by the proposed extension of the testing interval for the single SV. The proposed change does not modify the design of or alter the operation of systems or components used in mitigating design basis accidents. Thus, this proposed amendment would not result in a significant increase in the consequences of any accident previously evaluated.

Based on the above, it is concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

A new or different kind of accident from any previously evaluated might result from a modification of the plant design by either addition of a new system or removal of an existing system, or a change in how any of the plant systems function during the operation of the plant. The proposed change does not modify the plant design, nor does it alter the operation of the plant or equipment involved in either routine plant operation or in the mitigation of the design basis accidents.

Based on the above, it is concluded that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety applicable to this issue would be the margin between the pressure at which the SRVs and SVs would actuate and the allowable ASME [American Society of Mechanical Engineers] Code overpressure limit of 1,375 psig [pounds per square inch gauge] (110 percent of vessel design pressure, 1250 psig). This margin would be impacted if the setpoint at which the applicable SV actuated experienced drift greater than the allowable plus-or-minus three percent of the setpoint pressure. This is not expected to occur based on the results demonstrated by the setpoint testing conducted over the last ten years. Those results were two actuations of the SV at a pressure below the nameplate rating with less than two percent deviation, and one actuation at a pressure above the nameplate rating with less than one percent deviation. However, even if this one SV did experience setpoint drift greater than the allowable plus-or-minus three percent, there would not be a significant reduction in the margin since it is expected that the remaining eight SRVs and the two other SVs would actuate within the allowable setpoint tolerance and begin to reduce RCS pressure as needed. Furthermore, the proposed extension will not result in a change to the steam discharge capacity and characteristics of the applicable SV.

Based on the above, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post OfficeBox 499, Columbus, NE 68602–0499.

NRC Branch Chief: Thomas G. Hiltz.

Nine Mile Point Nuclear Station (NMPNS), LLC, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2 (NMP2), Oswego County, New York

Date of amendment request: July 23, 2007.

Description of amendment request: The proposed amendment would modify a footnote in NMP2 Technical Specification (TS) Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' such that a new banked position withdrawal sequence (BPWS) shutdown sequence could be utilized. The proposed change is consistent with TS Task Force (TSTF) change TSTF–476, Revision 1, ''Improved BPWS Control Rod Insertion Process (NEDO–33091).'' The availability of the TS change was published in the **Federal Register** on May 23, 2007 (72 FR 29004) as part of the consolidated line item improvement process. The licensee affirmed the applicability of the model no significant hazards consideration determination in its application.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed changes modify the TS to allow the use of the improved banked position withdrawal sequence (BPWS) during shutdowns if the conditions of NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' July 2004, have been satisfied. The [NRC] staff finds that the licensee's justifications to support the specific TS changes are consistent with the approved topical report and TSTF–476, Revision 1. Since the change only involves changes in control rod sequencing, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident after adopting TSTF–476 are no different than the consequences of an accident prior to adopting TSTF–476. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any [Accident] Previously Evaluated

The proposed change will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The control rod drop accident (CRDA) is the design basis accident for the subject TS changes. This change does not create the possibility of a new or different kind of accident from [any] accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the [a] Margin of Safety

The proposed change, TSTF–476, Revision 1, incorporates the improved BPWS, previously approved in NEDO–33091–A, into the improved TS. The control rod drop accident (CRDA) is the design basis accident for the subject TS changes. In order to minimize the impact of a CRDA, the BPWS process was developed to minimize control rod reactivity worth for BWR plants. The proposed improved BPWS further simplifies the control rod insertion process, and in order to evaluate it, the [NRC] staff followed the guidelines of Standard Review Plan Section 15.4.9, and referred to General Design Criterion 28 of Appendix A to 10 CFR Part 50 as its regulatory requirement. The TSTF stated the improved BPWS provides the following benefits: (1) Allows the plant to reach the all-rods-in condition prior to significant reactor cool down, which reduces the potential for re-criticality as the reactor cools down; (2) reduces the potential for an operator reactivity control error by reducing the total number of control rod manipulations; (3) minimizes the need for manual scrams during plant shutdowns, resulting in less wear on control rod drive (CRD) system components and CRD mechanisms; and (4) eliminates unnecessary control rod manipulations at low power, resulting in less wear on reactor manual control and CRD system components. The addition of procedural requirements and verifications specified in NEDO–33091–A, along with the proper use of the BPWS will prevent a control rod drop accident (CRDA) from occurring while power is below the low power setpoint (LPSP). The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

Nine Mile Point Nuclear Station (NMPNS), LLC, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2 (NMP2), Oswego County, New York

Date of amendment request: July 30, 2007.

Description of amendment request: The proposed amendment would modify Technical Specifications (TS) 3.7.3, ''Control Room Envelope Air Conditioning (AC) System,'' by adding an Action Statement to the Limiting Conditions for Operation. The new Action Statement allows a finite time to restore one control room envelope AC subsystem to operable status and requires verification that the control room temperature remains < 90 °F every 4 hours. The proposed changes are consistent with Nuclear Regulatory Commission (NRC)-approved TS Task Force (TSTF) TSTF–477, Revision 3, ''Adding an Action Statement for Two Inoperable Control Room Air Conditioning Subsystems.'' The availability of this TS improvement was published in the **Federal Register** on March 26, 2007 (72 FR 14143) as part of the consolidated line item improvement process. The licensee affirmed the applicability of the model no significant hazards consideration determination in its application.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change is described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF–477 [and] adds an action statement for two inoperable control room subsystems. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes add an action statement for two inoperable control room subsystems. The equipment qualification temperature of the control room equipment is not affected. Future changes to the Bases or licensee controlled documents will be evaluated pursuant to the requirements of 10 CFR 50.59, ''Changes, test and experiments'', to ensure that such changes do not result in more than a minimal increase in the probability or consequences of an accident previously evaluated. The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the

consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any [Accident] Previously Evaluated

The proposed changes add an action statement for two inoperable control room subsystems. The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal plant operation. The requirements in the TS continue to require maintaining the control room temperature within the design limits. Therefore, the changes do not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the [a] Margin of Safety

The proposed changes add an action statement for two inoperable control room subsystems. Instituting the proposed changes will continue to maintain the control room temperature within design limits. Changes to the Bases or license[e-]controlled document[s] are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that the control room temperature will be maintained within design limits. The proposed changes maintain sufficient controls to preserve the current margins of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of amendment request: June 7, 2007.

Description of amendment request: The proposed amendment would delete the license conditions that require reporting of violations of other requirements (e.g., conditions listed in Sections 2.C and 2.F for Unit 1 and Section 2.C for Unit 2) in the operating licenses. This change is in accordance with Nuclear Regulatory Commission (NRC)-approved Technical Specification (TS) Task Force (TSTF) change traveler TSTF–372, Revision 4. The NRC staff issued a notice of availability of a model no significant hazards consideration (NSHC) determination in the **Federal Register** on August 29, 2005 (70 FR 51098). The notice included a model safety evaluation, a model NSHC determination, and a model license amendment request. In its application dated June 7, 2007, the licensee affirmed the applicability of the model NSHC determination which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves the deletion of a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is administrative in that it deletes a reporting requirement. The change does not add new plant equipment, change existing plant equipment, or affect the operating practices of the facility. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change deletes a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves NSHC.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRCBranch Chief: Mark G. Kowal.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of amendment request: June 8, 2007.

Description of amendment request: The proposed amendment would revise Limiting Condition for Operation (LCO) 3.10.1, and the associated Bases, to expand its scope to include provisions for temperature excursion greater than 200 degrees Fahrenheit (°F) as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice leak or hydrostatic test, while considering operational conditions to be in Mode 4 for SSES 1 and 2. This change is in accordance with Nuclear Regulatory Commission (NRC)-approved Technical Specification (TS) Task Force (TSTF) change traveler TSTF–484, ''Use of TS 3.10.1 for Scram Time Testing Activities.'' The NRC staff issued a notice of opportunity to comment and notice of availability of a model no significant hazards consideration (NSHC) determination in the **Federal Register** on August 21, 2006 (71 FR 48561) and October 27, 2006 (71 FR 63050), respectively. The notices included a model safety evaluation, a model NSHC determination, and a model license amendment request. In its application dated June 8, 2007, the licensee affirmed the applicability of the model NSHC determination which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee is presented below:

Criterion 1—The Proposed Change Does not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Technical Specifications currently allow for operation at greater than 200 degrees Fahrenheit (°F) while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact the probability or consequences of an accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. No new operational conditions beyond those currently allowed by LCO 3.10.1 are introduced. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or

eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact any margin of safety. Allowing completion of inspections and testing and supporting completion of scram time testing initiated in conjunction with an inservice leak or hydrostatic test prior to power operation results in enhanced safe operations by eliminating unnecessary maneuvers to control reactor temperature and pressure. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the standards of 10 CFR 50.92 (c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves NSHC.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Mark G. Kowal.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of amendment request: August 14, 2007.

Description of amendment request: The proposed amendments would add a new license condition to the SSES 1 and 2 Operating Licenses to permit the valves in Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix J leakage test program to be tested at the higher pressure during the next scheduled test rather than requiring all of the valves to be tested at the higher pressure prior to the implementation of the constant pressure power uprate license amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed License Condition change does not involve any physical change to structures, systems, or components (SSCs) and does not alter the method of operation or control of SSCs. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant. No new equipment is being introduced and installed equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alterations in the procedures that ensure the plant remains within analyzed limits are being proposed, and no changes are being made to the procedures relied upon to respond to an off-normal event as described in the FSAR [final safety analysis report]. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change is acceptable because of the satisfactory performance of the Primary Containment Integrated Leak Rate Tests on both Unit 1 and Unit 2 at the new calculated pressure and the substantial margin to leakage rate acceptance limits based upon the Integrated Leak Rate Test and the current LLRT [local leak rate tests] results. Therefore, the plant response to analyzed events will continue to provide the margin of safety assumed by the analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Mark G. Kowal.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: April 27, 2007.

Description of amendment request: The proposed amendment revises the Joseph M. Farley Nuclear Plant, Units 1 and 2 Technical Specifications (TS) for Limiting Condition for Operation 3.9.3 ''Containment Penetrations,'' to allow the containment personnel air locks that provide direct access from the containment atmosphere to the auxiliary building to be open during refueling activities if appropriate administrative controls are established.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the Code of Federal Regulations (10 CFR) 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would allow the personnel air lock doors, and emergency air lock doors to remain open during fuel movement and core alterations. These doors are normally closed during this time period in order to prevent the release of radioactive material in the event of a fuel handling accident (FHA) inside containment. These doors are not initiators of any accident. The probability of a FHA is unaffected by the operational status of these doors.

The new FHA analysis with open containment personnel air locks demonstrates that maximum offsite dose is within the acceptance limits specified in RG [Regulatory Guide] 1.195. The FHA analysis results in maximum offsite doses of 68.5 rem [roentgen equivalent man] to the thyroid and 0.2 rem to the whole body. The calculated control room dose is also within the acceptance criteria specified in GDC [General Design Criteria] 19. The analysis results in thyroid and whole body doses to the control room operator of 39.6 rem and < 0.1 rem, respectively.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve the addition or modification of any plant equipment. Also, the proposed change will not alter the design, configuration, or method of operation of the plant beyond the standard functional capabilities of the equipment. The proposed change involves a TS change that

will allow the air lock doors to be open during core alterations and fuel movement inside containment. Open doors and penetrations do not create the possibility of a new accident. Administrative controls will be implemented to ensure the capability to close the containment in the event of a FHA.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change has the potential to increase the post-FHA dose at the Site Boundary, Low Population Zone and in the control room. However, a revised FHA analysis demonstrates that the dose consequences at both locations remains within regulatory acceptance limits and the margin of safety as defined by 10 CFR 100 and GDC 19 has not been significantly reduced. To ensure a bounding calculation, the revised FHA was performed with conservative assumptions. For example, it assumes the unfiltered release to the outside atmosphere of all airborne activity reaching the containment. Additional margin will be established through administrative procedures to require that the equipment hatch and at least one door in each air lock be closed following an evacuation of containment.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Branch Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: June 5, 2007.

Description of amendment request: The proposed amendments is for a new technical specification (TS) to address the operation of Engineered Safety Feature (ESF) Room Coolers required to support ESF TS equipment. This amendment includes surveillance requirements and will establish a Completion Time of 72 hours to allow adequate time to complete maintenance activities on the ESF Room Coolers and thus reduce the need for unnecessary plant shutdowns.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed addition of Technical Specification (TS) 3.7.19 creates a Limiting Condition for Operation (LCO) for the Engineering Safety Feature (ESF) Room Coolers required to support ESF TS equipment. The Completion Time presented in the new TS is consistent with other ESF mechanical system Completion Times and is supported by the inputs used in the current analysis. The possibility of a loss of off site power (LOSP) is actually reduced by continuing power operation of the Unit. The radiological consequences of any associated accidents are not impacted by the proposed amendment.

Therefore, it is concluded that this change does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a change in the methods governing normal operation of the plant. No new accident scenarios, failure mechanisms or limiting single failures are introduced as result of the proposed change. The change has no adverse effects on any safety-related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not impact accident offsite dose, containment pressure or temperature, emergency core cooling system (ECCS) or reactor protection system (RPS) settings or any other parameter that could affect a margin of safety.

Therefore, it is concluded that this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Branch Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: July 17, 2007.

Description of amendment request: The proposed amendments would revise the current Joseph M. Farley Nuclear Plant, Units 1 and 2 technical specification (TS) requirement for the Plant Manager or the Operations Manager to hold a Senior Reactor Operator (SRO) license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not impact any accident initiators or analyzed events. It does not impact any assumed mitigation capability for any accident or transient event. The change does not involve the addition or removal of any equipment or any design changes to the facility. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not involve any physical modifications to plant structures, systems, or components (SSCs), or

the manner in which SSCs are operated, maintained, modified, tested, or inspected. In addition, there is no change in the types or increases in the amounts of effluents that may be released offsite, and there is no increase in individual or cumulative occupational radiation exposure. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. The subject Operations Superintendent will be qualified to fill the Operations Manager position and have the same management authority over licensed operators as the Operations Manager.

In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. Administrative procedures will ensure that there is always an individual holding a current SRO license within Operations management. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1.

This change does not involve any physical modifications to SSCs, or the manner in which SSCs are operated, maintained, modified, tested, or inspected. The change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The setpoints at which protective actions are initiated are not altered by the change. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Branch Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2 (HNP), Appling County, Georgia

Date of amendment request: July 17, 2007.

Description of amendment request: The proposed amendments would revise the current HNP Technical Specification requirement for the Operations Manager to hold an active or inactive Senior Reactor Opeator (SRO) license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not impact any accident initiators or analyzed events. It does not impact any assumed mitigation capability for any accident or transient event. The change does not involve the addition or removal of any equipment or any design changes to the facility. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not involve any physical modifications to plant structures, systems, or components (SSCs), or the manner in which SSCs are operated, maintained, modified, tested, or inspected. In addition, there is no change in the types or increases in the amounts of effluents that may be released offsite, and there is no increase in individual or cumulative occupational radiation exposure. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. The subject Operations Superintendent will be qualified to fill the Operations Manager position and have the same management authority over licensed operators as the Operations Manager. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. Administrative procedures will ensure that there is always an individual holding a current SRO license within Operations management. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1.

This change does not involve any physical modifications to SSCs, or the manner in which SSCs are operated, maintained, modified, tested, or inspected. The change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The setpoints at which protective actions are initiated are not altered by the change. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2 (VEGP), Burke County, Georgia

Date of amendment request: July 17, 2007.

Description of amendment request: The proposed amendments would revise the current VEGP Technical Specification requirement for the Operation Manager to hold a Senior Reactor Operator (SRO) license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not impact any accident initiators or analyzed events. It does not impact any assumed mitigation capability for any accident or transient event. The change does not involve the addition or removal of any equipment or any design changes to the facility. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1. This change does not involve any physical modifications to plant structures, systems, or components (SSCs), or the manner in which SSCs are operated, maintained, modified, tested, or inspected. In addition, there is no change in the types or increases in the amounts of effluents that may be released offsite, and there is no increase in individual or cumulative occupational radiation exposure.

As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to TS 5.2 revises the requirement concerning the Operations management position that must hold an SRO license. At least one Operations Superintendent or the Operations Manager will continue to maintain an SRO license. The subject Operations Superintendent will be qualified to fill the Operations Manager position and have the same management authority over licensed operators as the Operations Manager. In addition, a requirement was added that if not currently licensed, the Operations Manager shall have previously held an SRO license. Administrative procedures will ensure that there is always an individual holding a current SRO license within Operations management. The training, qualification and experience requirements for Operations management personnel will continue to satisfy the Unit Staff Qualifications as described in the applicable TS 5.3.1.

This change does not involve any physical modifications to SSCs, or the manner in which SSCs are operated, maintained, modified, tested, or inspected. The change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The setpoints at which protective actions are initiated are not altered by the change. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, Nations Bank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Branch Chief: Evangelos C. Marinos.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: August 16, 2007.

Brief description of amendments: The proposed amendments would revise Technical Specifications (TS) 3.1.4, ''Rod Group Alignment Limits,'' Table 3.3.1–1, ''Reactor Trip System Instrumentation,'' Table 3.3.2–1, ''Engineered Safety Feature Actuation System Instrumentation,'' TS 3.4.10, ''Pressurizer Safety Valves,'' TS 3.7.1, ''Main Steam Safety Valves (MSSVs),'' and Table 3.7.1–1, ''Operable Main Steam Safety Valves Versus Maximum Allowable Power.'' The proposed change is a request to revise TSs for Comanche Peak Steam Electric Station, Units 1 and 2, to reflect cycle-specific safety analysis assumptions and results associated with the adoption of Westinghouse accident analyses methodologies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes only affect the transient and accident mitigation capability of the plant. The proposed changes to the pressurizer safety valve set pressure and as-found tolerance do not overlap with the pressurizer control system operation nor with the reactor trip setpoint. Therefore, the proposed changes do affect the probability of an accident previously evaluated.

The revised Reactor Trip System and Engineered Safety Features Actuation System setpoints have been shown, using NRC-approved analysis methodologies [the licensee's submittal for incorporating standard Westinghouse-developed analytical methods at Comanche Peak Steam Electric Station is under review by NRC], to meet all relevant event acceptance criteria. Similarly, the change to the nominal set pressure of the pressurizer safety valve, when evaluated using NRC-approved analysis methodologies, has been shown to meet the relevant event acceptance criteria. The proposed reduction to maximum allowable power level for operation in inoperable MSSVs has been previously shown to be very conservative. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are based on analyses and evaluations performed in accordance with NRC-approved methodologies shown to be applicable [to] CPNPP [Comanche Peak Nuclear Power Plant] and to be conservatively applied to CPNPP [Comanche Peak Steam Electric Station herein referred to as CPNPP]. None of

the proposed changes can result in plant operation outside the limits previously considered, nor allow the progression of transient or accident in a manner different that previously considered. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are based on analyses and evaluations performed in accordance with NRC-approved methodologies shown to be applicable to CPNPP and to be conservatively applied to CPNPP. All relevant event acceptance criteria were found to be satisfied. Therefore the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Thomas G. Hiltz.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: January 22, 2007.

Description of amendments request: The proposed amendments change the Technical Specifications related to the fuel design description and the fuel criticality methods to accommodate the transition to AREVA fuel.

*Date of publication of individual notice in the **Federal Register:*** August 29, 2007 (72 FR 49742).

Expiration dates of individual notice: September 28, 2007 (Public comments) and October 29, 2007 (Hearing requests).

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: July 10, 2007.

Brief description of amendment request: The proposed amendment would revise the values of the safety limit minimum critical power ratio in Technical Specification Section 2.1.1, ''Reactor Core SLs.''

*Date of publication of individual notice in **Federal Register:*** September 5, 2007 (72 FR 50986).

Expiration date of individual notice: November 5, 2007.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. 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 or by e-mail to *pdr@nrc.gov*.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, CalvertCliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: November 3, 2005, as supplemented March 22 and July 17, 2007.

Brief description of amendments: The amendments implement the alternative source term methodology for analyzing design basis accident radiological consequences, thereby replacing the existing accident radiological source term that is described in Technical Information Document TID–14844, ''Calculation of Distance Factors for Power and Test Reactor Sites.''

Date of issuance: August 29, 2007.

Effective date: This license amendment is effective as of the date of its issuance and shall be implemented within 60 days following completion of the installation and testing of the plant modifications described in the licensee's letters dated November 3, 2005,March 22 and July 17, 2007.

Amendment Nos.: 281 and 258.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the License and Technical Specifications.

*Date of initial notice in **Federal Register:*** January 17, 2006 (71 FR 2589) The supplements dated March 22 and July 17, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 29, 2007.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: August 2, 2007 as supplemented by letters dated March 9 and May 8, 2007.

Brief description of amendment: This amendment revises Technical Specification 2.2.1 and 3/4.3.2 to modify the statistical summation error term ''Z'' and one of the allowable values for certain steam generator water level trip setpoints used in the Reactor Trip system and Engineered Safety Feature Actuation System instrumentation.

Date of issuance: August 31, 2007.

Effective date: 60 days from the date of issuance.

Amendment No. 126.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 27, 2007 (72 CR 8801). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2007. The supplemental letters provided clarifying information that did not expand the scope of the original application or change the initial proposed no significant hazards consideration determination. No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: October 16, 2006, as supplemented by letter dated July 30, 2007.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) to add a topical report to the analytical methods referenced in TS 5.6.5.b, ''Core Operating Limits Report (COLR),'' previously approved by U.S. Nuclear Regulatory Commission. The current method of performing the loss-of-coolant accident analyses was replaced by an updated method described in AREVA NP (formerly known as Framatome or Siemens) topical report, ''EXEM BWR–2000 [Boiling-Water Reactor-2000] ECCS [Emergency Core Cooling System] Evaluation Model.''

Date of issuance: August 30, 2007.

Effective date: As of the date of issuance and shall be implemented prior to Cycle 15 operation.

Amendment No.: 153.

Facility Operating License No. NPF–47: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** November 7, 2006 (71 FR 65141). The supplemental letter dated July 30, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 2007.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: October 19, 2006, as supplemented June 7, 2007.

Brief description of amendments: Amendments revise Technical Specification 4.6.2.1.d. to change the frequency of air or smoke flow testing of the containment spray nozzles.

Date of Issuance: September 4, 2007.

Effective Date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 201 and 148.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 3, 2007 (72 FR 152). The supplement dated June 7, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 4, 2007.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: April 26, 2007.

Brief description of amendments: The amendments revised the technical specifications (TSs) to add new Limiting Condition for Operation 3.0.6.

Date of issuance: September 5, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos: 235 and 230.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** July 3, 2007 (72 FR 36522).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 5, 2007.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 17, 2006, as supplemented by letters dated February 7, April 17, May 4, and July 26, 2007.

Brief description of amendment: The amendment revised Technical Specification (TS) 4.3.1.1.c, ''Criticality,'' by adding a new nominal center-to-center distance between fuel assemblies for two new storage racks, and TS 4.3.3, ''Capacity,'' by increasing the capacity of the spent fuel storage pool from 2366 assemblies to 2651 assemblies.

Date of issuance: September 6, 2007.

Effective date: As of the date of issuance and shall be implemented within 45 days of issuance.

Amendment No.: 227.

Facility Operating License No. DPR–46: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** December 5, 2006 (71 FR 70561) and January 19, 2007 (72 FR 2560).

The supplements dated February 7, April 17, May 4, and July 26, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 6, 2007.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit No. 2, Oswego County, New York

Date of application for amendment: January 4, 2007, as supplemented by letters dated April 27, 2007, May 22, 2007, and July 23, 2007.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.7.1, ''Service Water (SW) System and Ultimate Heat Sink (UHS),'' as follows: revises the existing Limiting Condition for Operation (LCO) statement to require four operable SW pumps to be in operation when SW subsystem supply header water temperature is ≤82 °F; adds a requirement that five operable SW pumps be in operation when SW subsystem supply header water temperature is >82 °F and ≤84 °F; deletes Condition G and the associated Required Actions and Completion Times; revises Surveillance Requirement 3.7.1.3 to increase the maximum allowed SW subsystem supply header water temperature from 82 °F to 84 °F; and modifies the requirements for increasing the surveillance frequency as the temperature approaches the limit.

Date of issuance: September 4, 2007.

Effective date: As of the date of issuance to be implemented within 90 days.

Amendment No.: 119.

Renewed Facility Operating License No. NPF–69: Amendment revises the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 13, 2007 (72 FR 11390).

The supplemental letters dated April 27, 2007, May 22, 2007, and July 23, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 2007.

No significant hazards consideration comments received: No

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: November 16, 2006, as supplemented on March 29 and July 31, 2007.

Brief Description of amendments: These amendments added a reference in Technical Specification (TS) Section 6.2.C, ''Core Operating Limits Report (COLR),'' to permit the use of the Westinghouse Best-Estimate Large Break Loss-of-Coolant Accident (BE–LBLOCA) analysis methodology using the Automated Statistical Treatment of Uncertainty Method (ASTRUM) for the analysis of LBLOCA.

Date of issuance: September 6, 2007.

Effective date: As of date of issuance and shall be implemented at the completion of Unit 1 fall 2007 refueling outage.

Amendment Nos.: 254 and 253.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments changed the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** December 5, 2006 (71 FR 70564). The supplements dated March 29 and July 31, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 6, 2007.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 14, 2007.

Brief description of amendment: The amendment revised Surveillance Requirements 3.7.2.1 and 3.7.3.1 for the main steam isolation valves and main feedwater isolation valves, respectively, to replace the isolation times by the phrase ''within limits.'' The valve closure times will be stated in the TS Bases, which is controlled by TS 5.5.14, ''Technical Specification (TS) Bases Control Program.'' This amendment is consistent with the NRC-approved Technical Specification Task Force Traveler 491, Revision 2, ''Removal of Main Steam and Main Feedwater Isolation Times.''

There are other proposed changes to the TSs in the application dated March 14, 2007, that are not being addressed in this amendment. These will be addressed in future letters to the licensee.

Date of issuance: August 28, 2007.

Effective date: Effective as of its date of issuance and shall be implemented within 90 days of the date of issuance.

Amendment No.: 174.

Facility Operating License No. NPF–42. The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** June 19, 2007 (72 FR 33785).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 2007.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 17th day of September, 2007.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–18634 Filed 9–24–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: OPM Form 1300, Presidential Management Fellows Program Nomination Form

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. The OPM Form 1300 is used by accredited colleges and universities to nominate eligible graduate students to the Presidential Management Fellows (PMF) Program.

As a result of Executive Order 13318 and OPM regulations on the PMF Program issued on May 19, 2005 (**Federal Register**, Vol. 70, No. 96, Page 28775), effective June 20, 2005, eligible graduate students interested in applying to the PMF Program must be nominated by their accredited graduate school's Dean, Chairperson, or Academic Program Director (otherwise referred to as the Nomination Official).

No comments were received during the 60-day comment period posted on October 5, 2006 (**Federal Register**, Vol. 71, No. 193, No. 193, Page 58888).

Approximately 3,000 Nomination Forms are projected to be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 1,500 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251, or via e-mail to *MaryBeth.Smith-Toomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Rob Timmins, Business Operations Manager, Presidential Management Fellows Program, U.S. Office of Personnel Management, 1900 E Street, NW., Room 1425, Washington, DC 20415 and Brenda Aguilar, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E7–18871 Filed 9–24–07; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Plasticon International Inc.; Order of Suspension of Trading

September 21, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Plasticon International Inc. (''Plasticon'') because Plasticon is delinquent on most of its required filings since November 1997.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT on September 21, 2007, through 11:59 p.m. EDT on October 4, 2007.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 07–4731 Filed 9–21–07; 1:52 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56457; File No. SR–Amex–2007–54]

Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Amendments to Exchange Training and Examination Requirements

September 18, 2007.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2007, the American Stock Exchange, LLC. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On September 5, 2007, Amex filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 thereto, from interested persons and approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing training and examination requirements.

The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supersedes and replaces the original rule filing in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex proposes certain clarifying changes to its rules governing its training and examination requirements. These changes are in connection with implementation of a mandatory annual training program for all floor members that addresses compliance with the federal securities laws and Amex rules to help prevent and deter unlawful trading by floor members, as well as to otherwise simplify and enhance the Exchange's existing training programs.[4]

The Exchange's proposal would require all floor members to participate in a mandatory annual regulatory training program, which would include participation in any Exchange testing programs in connection with the mandatory training program. The Exchange anticipates that the mandatory training program would be organized and grouped by floor member function and therefore foresees holding separate sessions for specialists, floor brokers, and registered traders.

The Exchange also proposes to enhance the new member qualification program. The new member qualification program currently in place requires all prospective new members to participate in a comprehensive training program and successfully complete a corresponding examination at the conclusion of the training. Members seeking to qualify as specialists must successfully complete a separate examination as well. The new program would retain the new member training program and examination as they currently exist, but would replace the specialist examination with an in-depth training program. The Exchange represents that it has found that new specialist applicants, in preparing for the specialist examination, focus primarily on the requirements necessary to pass the examination. The Exchange believes that a more effective method of training prospective specialists would involve training specifically related to specialists' particular activities and requirements. To this end, the Exchange proposes to eliminate the specialist

[4] Pursuant to an undertaking agreed to in connection with the recent settlement of a Commission administrative proceeding (the ''Order''), Amex agreed to enhance its existing regulatory training programs for floor members and certain staff members that addresses compliance with the federal securities laws and Exchange rules to help prevent and deter unlawful trading by floor members. *See* Exchange Act Release No. 55507; Administrative Proceeding File No. 3–12594 (March 22, 2007).

examination and instead institute an in-depth qualifying training program for specialist applicants.

The specialist training sessions would be structured in a manner similar to the new member training program, which covers the federal securities laws and Amex rules applicable to the prospective members' proposed functions. Likewise, the specialist training sessions would be held in small group settings to foster interaction, and to ensure that all participants actively engage in the training to help the participants become fully cognizant of the rules governing their floor activities.[5]

Lastly, in connection with floor clerk training, the Exchange proposes to eliminate the initial test requirements for new floor clerks but would maintain the annual training requirement for all floor clerks (post, booth and DK) active in the business on the Exchange trading floor (other than those performing strictly ministerial functions).

Accordingly, the Exchange proposes changes to the following rules:

Rule 50

Exchange Rule 50, Commentary .01, currently governs examination requirements for regular members seeking to register as specialists and regular or options principal members seeking to register as registered traders. The Exchange notes that in recent years, the examination requirement for registered traders has been subsumed into the new member examination. As stated above, the Exchange is proposing to amend Rule 50 to replace the specialist qualifying examination with a mandatory qualifying training program, which would include participation in any Exchange testing in connection with these mandatory training programs. The requirement for registered trader applicants to pass an examination has been removed in this proposal, since such examination has been subsumed into the new member examination.

Proposed Commentary .03 to Rule 50 describes the requirement that all floor members participate in a mandatory annual regulatory training program, which would include participation in any Exchange testing programs in connection with this mandatory training program. This proposed Commentary would subject members who fail to satisfactorily complete the program to a fine and, if warranted, preclusion from the trading floor until the requirement is met.

Proposed Commentary .04 is similar to proposed Commentary .03, except that it describes the mandatory regulatory training program for clerks. This program is comparable to the mandatory continuing education program implemented through current Exchange Rule 359A. The Exchange proposes to incorporate this requirement into Rule 50, and to eliminate Rule 359A, since both govern training requirements. The Exchange believes that having only one rule would help to simplify and clarify these requirements. In this proposal, the proposed rule text clarifies that clerks who perform strictly ministerial functions would be exempted. Sanctions for noncompliance, which are similar to those applicable to members, are also described.

Finally, the Exchange proposes to add new Commentary .05 to Rule 50 to state that the Exchange will submit a rule filing with the Commission, pursuant to Section 19(b) of the Act, proposing any new, or deleting any current, testing requirements outlining the content of such exam. The Exchange also committed to issue a formal notice to its membership notifying it of any changes in the current testing requirements. In addition, the Exchange moved the reference to study guides as noted in Commentary .03 to proposed Commentary. 05.

Rule 110 and Rule 110–AEMI

Exchange Rule 110 and Rule 110–AEMI govern requirements for Registered Traders. Members applying to register as Registered Traders are required to pass a Registered Trader Examination as prescribed by the Exchange. In recent years, the examination requirement for Registered Traders has been subsumed into the New Member Examination. The Exchange therefore proposes to amend both Rule 110 and Rule 110–AEMI to eliminate this obsolete reference. Pursuant to proposed Rule 50, Registered Traders would be required to participate in an Exchange-sponsored mandatory training program, which would include participation in any Exchange testing in connection with this mandatory training program.

Rule 353

Exchange Rule 353 governs regular and options principal membership and limited trading permit requirements and references relevant examination requirements. If a candidate is going to be active on the Floor, he or she must pass an examination before being permitted to execute orders on the Floor. Specialist candidates must pass an additional examination after a period of training. The Exchange proposes to eliminate the additional examination required of specialist candidates after a period of training as referenced in Rule 353. This proposed rule would instead reference the new mandatory qualifying training program for specialist applicants. The Exchange believes that the new mandatory qualifying training program for specialists will be more effective in training new specialist applicants on the requirements applicable to their respective member functions.

Rule 359A

Exchange Rule 359A governs mandatory continuing education for all floor members and mandatory continuing education and initial test requirements for floor clerks of members and member firms. Rule 359A presently requires all floor members and floor clerks of members (post, booth and DK) to participate in the Exchange-sponsored mandatory continuing education program, which is conducted online. Rule 359A would be eliminated under this proposal. The rules governing mandatory continuing education and regulatory training would be incorporated into Rule 50, and the initial test requirements for new floor clerks would be eliminated.

Finally, the Exchange notes that, pursuant to the Order, all floor members, as well as members of Amex's regulatory staff who are responsible for the surveillance, investigation, examination and discipline of floor members, would be required to participate in mandatory annual regulatory training.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Act in general and furthers the objectives of Section 6(b)(5)[7] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest. Furthermore, the proposed rule change is consistent with the objectives of Section 6(b)(6)[8] in that it is designed to appropriately discipline or sanction members for violation of the provisions

[5] The Exchange would offer the training programs on a periodic basis sufficiently frequent to reasonably accommodate demand and to ensure that all floor members receive training as required by the Order and in accordance with Amex rules.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(6).

of this title, the rules or regulations thereunder, or the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–54. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–54 and should be submitted on or before October 16, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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.[9] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change institutes a mandatory annual training program for Amex floor members. The Commission believes that this proposal should allow the Exchange to more effectively train its members to ensure compliance by its members with Exchange rules and the federal securities laws.

In addition, the Commission believes the proposed rule change is consistent with the objectives of Section 6(b)(6) [11] of the Act because it is designed to allow Amex to discipline or sanction members under its Minor Rule Violation Fine System for violation of the provisions of the rules of the Exchange.

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,[12] to grant accelerated approval to the proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the proposed rule change is in response to a Commission Order requiring Amex to enhance its training program to help ensure compliance by its members with Exchange rules and federal securities laws. The Commission believes that mandatory training of Amex floor members should be implemented as soon as possible so that floor members are made aware of their duties and obligations under the federal securities laws as well as the rules of the Amex.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Amex–2007–54), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

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[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(6).

[12] 15 U.S.C. 78s(b)(2).

[13] *Id.*

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56459; File No. SR–Amex–2007–24]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto To Retroactively Amend Transaction Charges for Equities, ETFs, and Nasdaq UTP Securities

September 18, 2007.

I. Introduction

On February 22, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to retroactively apply a revised fee schedule to transactions in equities, exchange-traded funds (''ETFs''), and Nasdaq UTP securities from January 2, 2007 through February 21, 2007. On August 10, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 17, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56238 (August 10, 2006), 72 FR 46253.

II. Description of the Proposal

Effective January 2, 2007, the Exchange adopted new transaction charges for its members and member organizations largely relating to the Exchange's new hybrid market trading platform (known as AEMI), the upcoming implementation of Regulation NMS, and changes in the competitive landscape for equities, ETFs, and Nasdaq UTP securities (this fee schedule referred to herein as the ''January Fee Schedule'').[4] The Exchange has represented that it had difficulty obtaining the data necessary to calculate an accurate bill pursuant to the January Fee Schedule and providing that data to its clearing firms in a timely manner so the firms could accurately pass those charges on to their customers. For this reason, the Exchange submitted a filing on February 22, 2007, in conjunction with this filing, to eliminate the January Fee Schedule and revert to the schedule for transaction charges in equities, ETFs, and Nasdaq UTP securities in effect prior to January 2, 2007 (referred to herein as the ''February Fee Schedule'').[5] The February Fee Schedule also included a five percent discount for customer orders.[6] The proposed rule change would make the February Fee Schedule effective retroactively for the period of January 2, 2007 through February 21, 2007.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members. The Exchange has represented that a small number (less than ten) of its clearing members may owe a small amount more in fees based on the February Fee Schedule than they would have owed under the January Fee Schedule, and that the Exchange will credit their accounts in the amount of the additional sum owed. Thus, the retroactive application of the February Fee Schedule will not result in an increase in the transaction fees owed on these past transactions.[9] Therefore, the Commission believes the fee change to be equitable and thus consistent with Section 6(b)(4) of the Act.[10]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–Amex–2007–24), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

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[4] *See* Securities Exchange Act Release No. 55195 (January 30, 2007) 72 FR 5469 (February 6, 2007) (SR–Amex–2006–117).

[5] *See* Securities Exchange Act Release No. 55458 (March 13, 2007), 72 FR 13320 (March 21, 2007) (SR–Amex–2007–23).

[6] ''Customers'' are defined forpurposes of the fee schedule to include all market participants except specialists and registered traders. Therefore, customer accounts include members' off-floor proprietary accounts and the accounts of competing market makers and other member and non-member broker-dealers.

[7] In approving this proposed rule change, theCommission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(4).

[9] Transaction fees are generally an importantfactor that a market participant considers when routing its orders. If a market participant had known that a higher transaction fee would apply, it might have made different decisions about where to route.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56465; File No. SR–Amex–2006–96]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change, as Modified by Amendments No. 1, 2, 3, 4, 5, and 6 Thereto, Relating to the Listing and Trading of Shares of the Nuveen Commodities Income and Growth Fund

September 19, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on October 12, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On March 2, 2007, March 21, 2007, May 14, 2007, August 15, 2007, August 28, 2007, and September 17, 2007 the Amex submitted Amendment Nos. 1, 2, 3, 4, 5, and 6, respectively, 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

The Exchange proposes to add new Amex rules 1600 *et seq.* to permit the listing and trading of units of a trust or other similar entity (''Trust Units'') that invests in the assets of a trust, partnership, limited liability company, corporation or other similar entity constituted as a commodity pool that holds investments comprising or otherwise based on futures contracts, options on futures contracts, forward contracts, commodities and high credit quality short-term fixed income securities or other securities. The Exchange, pursuant to proposed Rule 1600 *et seq.*, seeks to list and trade Trust Units of the Nuveen Commodities Income and Growth Fund (the ''Trust'' or ''Fund''). The Trust Units of the Fund are referred to herein as the ''Shares.''

The text of the proposed rule change is available at the Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has substantially 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 add new Amex rules 1600 *et seq.* which will permit the listing and trading of Trust Units. Specifically, the Amex proposes to list and trade the Shares, which represent beneficial ownership interests in the assets of the Fund, consisting solely of units (''Master Fund Units'') of the Nuveen Commodities Income and Growth Master Fund LLC (the ''Master Fund'').

The Fund was formed as a Delaware statutory trust on December 7, 2005

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

pursuant to a Declaration of Trust signed by Wilmington Trust Company, as the Delaware Trustee.[3] The Master Fund was organized as a limited liability company on December 7, 2005 under Delaware law. The Fund's primary investment objective is to seek total return through broad exposure to the commodities markets. The Fund's secondary objective is to provide investors with monthly income and capital distributions not commonly associated with commodity investments. The Master Fund will invest in commodity futures and forward contracts, options on commodity futures and forward contracts and over-the-counter (''OTC'') commodity options in the following commodity groups: energy, industrial metals, precious metals, livestock, agriculturals, and tropical foods and fibers and may in the future include other commodity investments that become the subject of commodity futures trading.[4]

The Fund and the Master Fund are commodity pools. The Master Fund is managed by Nuveen Commodities Asset Management, LLC (the ''Manager''). The Manager is registered as a commodity pool operator (the ''CPO'') and a commodity trading advisor (the ''CTA'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA'').

The Manager will serve as the CPO and CTA of the Fund and the Master Fund. The Manager will determine the Master Fund's overall investment strategy, including: (i) The selection and ongoing monitoring of the Master Fund's sub-advisors; (ii) the management of the Fund's and Master Fund's business affairs; and (iii) the provision of certain clerical, bookkeeping and other administrative services. Gresham Investment Management LLC (the ''Commodity Sub-Advisor'') will invest on a notional basis substantially all of the Master Fund's assets in commodity futures and forward contracts pursuant to the commodity investment strategy (its proprietary Tangible Asset Program® (''TAP® '')) [5] and a risk management program. The Commodity Sub-Advisor is a Delaware limited liability company and is registered with the CFTC as a CTA and a CPO and is a member of the NFA. The Commodity Sub-Advisor is also registered with the Commission as an investment adviser. Nuveen Asset Management (the ''Collateral Sub-Advisor''), an affiliate of the Manager, will invest the Master Fund's collateral in short-term, investment grade quality debt instruments. The Collateral Sub-Advisor is registered with the Commission as an investment adviser.

The Exchange submits that proposed Amex Rules 1600 *et seq.* will accommodate the listing and trading of Trust Units.

Introduction

The Exchange notes that the Commission has permitted the listing and trading of products linked to the performance of an underlying commodity or commodities.[6]

In January 2006, the Commission approved Commentary .07 to Rule 1202 which expanded the ability of the Exchange to list and trade securities based on a portfolio of underlying investments that may not be ''securities.'' [7] Because the Fund is not a TIR (*i.e.*, a security issued by a trust which holds specified securities deposited with the trust, that when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities), the current TIR Rules (Amex Rule 1200 *et seq.*) do not specifically permit the Exchange to list the Shares. This proposal seeks to expand the ability of the Exchange to list and/or trade trust securities based on a portfolio of underlying investments that are not TIRs.

Under proposed Amex Rule 1601, the Exchange may list and trade the Shares. For each separate and discrete listing of Trust Units, the Exchange will submit a filing pursuant to Section 19(b) of the Act subject to Commission review and approval. The Shares will conform to the initial and continued listing criteria under proposed Rule 1602.[8] The Fund will issue the Shares registered under the Securities Act of 1933.

Investment Description

The Fund's investment objective is to generate attractive risk-adjusted total returns as compared to investments in commodity indexes.

The Fund intends to pursue its investment objective by investing all of its assets in the Master Fund, which in turn intends to pursue these investment objectives by utilizing: (a) An actively managed rules-based commodity investment strategy, whereby the Master Fund will invest in a diversified basket of commodity futures and forward contracts with an aggregate notional value substantially equal to the net assets of the Master Fund; and (b) a risk management program designed to moderate the overall risk and return characteristics of the Master Fund's commodity investments. In pursuing the risk management program, the Master Fund will: (i) Purchase ''out-of-the-money'' commodity put options for protection against significant asset value declines; and (ii) write (sell) ''out-of-the-money'' commodity call options to obtain option premium cash flow, in each case on individual futures and forward contracts, on baskets of commodities or on broad based commodity indices.

The Master Fund will typically: (i) Invest in commodity futures and forward contracts that are traded either on U.S. or non-U.S. commodity futures exchanges; (ii) purchase put and sell call options on commodity futures and forward contracts that are traded either on U.S. or non-U.S. exchanges; and (iii) purchase OTC commodity put options through dealers pursuant to negotiated,

[3] The Fund, as a commodity pool, will not be subject to registration and regulation under the Investment Company Act of 1940 (the ''1940 Act'').

[4] Following is a list of futures contracts and other commodity interests in which the Master Fund may invest and the exchanges on which they trade with the greatest dollar volume traded: Lumber, Milk, Feeder Cattle, Lean Hogs, Live Cattle, Pork Bellies—Chicago Mercantile Exchange (''CME''); Cocoa, Coffee, Cotton, Orange Juice, Sugar—New York Board of Trade (''NYBOT''); Gold, Silver—Commodity Exchange (''COMEX'') which is a division of the the New York Mercantile Exchange (''NYMEX''); Palladium, Platinum, Crude Oil, Heating Oil, Natural Gas, Unleaded Gas—NYMEX; Aluminum, Copper, Lead, Nickel, Tin, Zinc—London Metals Exchange (''LME''); Bean Oil, Corn, Oats, Soy Meal, Soybeans, Wheat—Chicago Board of Trade (''CBOT'').

[5] Although the Master Fund does not currently intend to utilize leverage (subject to the limitation below), the Master Fund does have the ability to do so through the issuance of preferred units and/or borrowings. The Master Fund (and the Fund) may not utilize leverage in an amount exceeding 33% of the Master Fund's capital after such issuance.

[6] *See* Securities Exchange Act Release Nos. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR–Amex–2005–059) (approving the listing and trading of the DB Commodity Index Tracking Fund); 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR–Amex–2004–38) (approving the listing and trading of the iShares COMEX Gold Trust); 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (NYSE–2004–22) (approving the listing and trading of streetTRACKS Gold Shares); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (SR–Amex–97–46) (approving the listing and trading of commodity index preferred or debt securities (ComPS) on various agricultural futures contracts and commodities indexes); 36885 (February 26, 1996), 61 FR 8315 (March 4, 1996) (SR–Amex–95–50) (approving the listing and trading of ComPS linked to the value of single commodity); and 35518 (March 21, 1995), 60 FR 15804 (March 27, 1995) (SR–Amex–94–30) (approving the listing and trading of commodity indexed notes or COINS).

[7] *See* Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR–Amex–2005–059).

[8] Proposed Amex Rule 1602 for listing the Trust Units is substantially similar to current Amex Rules 1202A and 1502 relating to Commodity-Based Trust Shares and Partnership Units, respectively. The proposed rule sets forth the initial and continued listing standards for the Trust Units.

bi-lateral arrangements. The Master Fund also may invest in other commodity contracts that are presently, or may hereafter become, the subject of commodity futures trading. Except for certain limitations described below, there are no restrictions or limitations on the specific commodity investments in which the Master Fund may invest.

Commodity Investment Strategy (TAP®). The Commodity Sub-Advisor will invest on a notional basis substantially all of the Master Fund's assets in commodity futures and forward contracts pursuant to the commodity investment strategy TAP®, an actively managed, rules-based [9] commodity investment strategy. TAP® is fundamental in nature and is designed to maintain consistent, fully collateralized exposure to commodities as an asset class. TAP® does not require the existence of price trends in order to be successful.

Risk Management Program. Pursuant to the risk management program, the Master Fund will purchase commodity put options that are ''out-of-the-money'' [10] on a continual basis on all or substantially all of the notional value of its commodity futures and forward contract positions, and write (or sell) commodity call options that are 5 to 10% ''out-of-the-money'' on a continual basis on approximately 50% of the notional value of each of its commodity futures and forward contract positions. In order to seek protection against significant asset value declines, the Master Fund will purchase put options on broad-based commodity indices such as the Dow Jones®/AIG Commodity Index® (''DJ/AIGCI''), the Goldman Sachs Commodity Index (''GSCI''), or on certain custom indices, whose prices are expected to closely correspond to a substantial portion of the long commodity futures and forward contracts held by the Master Fund. The Master Fund also may purchase put options on baskets of commodities and on individual futures and forward contracts held by it. On an absolute basis, the Master Fund does not expect that the cost to purchase put options at any one time will exceed 5% of the value of the Master Fund's net assets.

Also pursuant to the risk management program, the Commodity Sub-Advisor will write call options on individual futures and forward contracts held by the Master Fund, on baskets of commodities or on broad based commodity indices. The Master Fund will write call options on approximately 50% of each of its commodity futures and forward contracts. As the writer of call options for which a premium is received, the Master Fund will forego the right to any appreciation in the value of each commodity futures or forward contract in its portfolio that effectively underlies a call option to the extent the value of the commodity futures or forward contract exceeds the exercise price of such option on or before the expiration date.

Debt Instruments Used as Collateral. The Master Fund's investments in commodity futures and forward contracts, options on commodity futures and forward contracts, and OTC commodity put options generally will not require significant outlays of principal. To support its commodity investments, the Master Fund anticipates that it will maintain significant collateral that will be invested in short-term debt instruments with maturities of up to 2 years that, at the time of investment, are investment grade quality, including obligations issued or guaranteed by the U.S. government or its agencies and instrumentalities, as well as corporate obligations and asset-backed securities. Although earning interest income, the collateral is subject on a continual basis to additional margin calls by the commodity broker and to additional deposits in the commodity account if the levels of notional trading change.

Commodity Futures and Forward Contracts and Related Options

The prices of the commodity futures and forward contracts, options on commodity futures and forward contracts, and OTC commodity options are volatile with fluctuations expected to affect the value of the Shares. Commodity futures and forward contracts and options on commodity futures and forward contracts to be held by the Master Fund will be traded on U.S. and/or non-U.S. exchanges. The commodity futures and forward contracts to be entered into by the Master Fund are listed and traded on organized and regulated exchanges based on the various commodities in the groups described above.[11] Forward contracts are contracts for the purchase and sale of a commodity for delivery on or before a future date or during a specified period at a specified price. Futures contracts are essentially forward contracts that are traded on exchanges. Options on commodity futures and forward contracts are contracts giving the purchaser the right, as opposed to the obligation, to acquire or to dispose of the commodity futures or forward contract underlying the option on or before a future date at a specified price. The Master Fund may purchase OTC commodity put options through dealers pursuant to negotiated, bi-lateral arrangements.

The potential futures contracts are traded on U.S. and non-U.S. exchanges, including the CBOT, the CME, the InterContinental Exchange (''ICE FUTURES''), the LME, NYMEX, COMEX, and the NYBOT.

The Manager will assess or review, as appropriate, the creditworthiness of each potential or existing, as appropriate, counterparty to an OTC contract pursuant to guidelines approved by the Manager's board of directors. Furthermore, the Manager, on behalf of the Fund, will only enter into OTC contracts with: (a) Members of the Federal Reserve System or foreign banks with branches regulated by the Federal Reserve Board; (b) primary dealers in U.S. government securities; (c) broker-dealers; (d) futures commission merchants; or (e) affiliates of the foregoing.

Structure of the Fund

Fund. The Fund is a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue shares that represent units of fractional undivided beneficial interest in and ownership of the Fund.

Master Fund. The Master Fund is a limited liability company organized pursuant to Delaware law and will issue units that represent units of fractional undivided membership interest in and ownership of the Master Fund.

Trustee. Wilmington Trust Company, is the Delaware Trustee of the Fund. The Delaware Trustee is unaffiliated with the Manager.

Individual Trustees. The individual trustees of the Fund, all of whom will be unaffiliated with the Manager, will fulfill those functions required under the Amex listing standards and certain other functions as set forth in the Fund's Trust Agreement.

Manager. The Manager is a Delaware limited liability company that is

[9] TAP® currently requires investment in futures or forward contracts for three commodities in each of the energy, industrial metals, livestock, agriculturals, tropical foods and fibers and precious metal commodity groups. Commodity group weightings and individual commodity weightings are chosen by a process that blends two-thirds of five year global production value and one-third of five year value of commodity futures contracts traded in dollars. The process constrains the weightings of each commodity group such that no group may constitute more than 35% of TAP® and no single commodity interest can constitute more than 70% of its group. In addition, each commodity is rebalanced periodically to its target weighting if its actual weighting deviates from its target substantially (currently, by more than 10%).

[10] ''Out-of-the-money'' put option is an option whose stock price is above its strike price.

[11] *See supra* note 4.

registered with the CFTC as a CPO and CTA and is a wholly-owned subsidiary of Nuveen Investments, Inc. The Manager will serve as the CPO and CTA of the Fund and the Master Fund and through the Commodity Sub-Advisor will be responsible for determining the Master Fund's overall investment strategy and its implementation. It is anticipated that the individual trustees, pursuant to the Fund's Trust Agreement, will delegate all authority (other than the individual trustees' limited requirements to serve on the Fund's Audit Committee and Nominating Committee) to the Manager to operate the business of the Fund and to be responsible for the conduct of the Fund's commodity affairs. As a registered CPO and CTA, the Manager is required to comply with various regulatory requirements under the CEA and the rules and regulations of the CFTC and the NFA.

Commodity Sub-Advisor. The Commodity Sub-Advisor is a Delaware limited liability company that is registered with the CFTC as a CTA and a CPO and is a member of the NFA. As a registered CPO and CTA, the Commodity Sub-Advisor is required to comply with various regulatory requirements under the CEA and the rules and regulations of the CFTC and the NFA. The Commodity Sub-Advisor is also registered with the SEC as an investment adviser.

Collateral Sub-Advisor. The Collateral Sub-Advisor is an affiliate of the Manager and a wholly owned subsidiary of Nuveen Investments, Inc. The Collateral Sub-Advisor is registered with the Commission as an investment adviser.

Transfer Agent, Registrar and Custodian. State Street Bank and Trust Company (''State Street'') will be the Transfer Agent and Registrar for the Shares and will be the Custodian for the assets of the Master Fund.

Commodity Broker. Lehman Brothers Inc. will act as the commodity broker for the Master Fund and will clear transactions that may be executed by it or other brokerage firms on a ''give-up'' basis. In addition, Lehman Brothers Inc. or an affiliate of Lehman Brothers Inc. may act as counterparty or select other brokers or dealers to act as counterparty with respect to the Master Fund's transactions in forward contracts and OTC commodity options. Lehman Brothers Inc. is registered as a futures commission merchant and a CPO and is a member of the NFA. Lehman Brothers Inc. also is registered with the Commission as a broker-dealer.

The Exchange notes that each of the Manager, the Commodity Broker, and the Commodity Sub-Advisor have represented to the Exchange that they each have erected and maintain firewalls within their respective institutions to prevent the flow of non-public information regarding the portfolio of underlying securities from the personnel involved in the development and implementation of the investment strategy to others such as sales and trading personnel.

Product Description

The Shares represent units of fractional undivided beneficial interest in and ownership of the Fund. Following the original issuance, the Shares will be traded on the Exchange similar to other equity securities.

The Fund will invest all of the proceeds of its offering of Shares in the Master Fund. The Master Fund will issue Master Fund Units, which represent units of fractional undivided interest in and ownership of the Master Fund. Master Fund Units may be purchased or redeemed on a continuous basis, but only by the Fund and the Manager. Master Fund Units may be purchased or redeemed by the Fund or the Manager, on an infrequent basis, in connection with the management of the Fund. For example, the Manager or Fund may purchase additional Master Fund Units if the Fund issues additional Fund Shares in a secondary offering. The Fund will own approximately 99% of the Master Fund Units, and the Manager will own the remaining Master Fund Units. No additional investors in the Master Fund will be solicited. The Fund will hold no investment assets other than the Master Fund Units. The investment results of the Fund will be directly and completely dependent on the investment results of the Master Fund.

Commencing with the Fund's first distribution, the Fund intends to make regular monthly distributions to its shareholders at a level rate (stated in terms of a fixed cents per share distribution rate) based on past and projected performance of the Fund.[12] The Fund's ability to make distributions at such a level rate will depend on a number of factors, including, most importantly, the long-term total returns generated by the Master Fund's portfolio investments and the risk management program.

As portfolio and market conditions change, the rate of distributions on the Master Fund Units and, in turn, the Shares, and the Master Fund's and the Fund's distribution policies could change.[13]

State Street will calculate the net asset value (''NAV'')[14] of the Master Fund's units shortly after 4 p.m. Eastern Time (''ET''). Because there will be a direct correspondence between the Shares and the Master Fund Units, the net asset value per share of the Fund and the net

[12] The Fund's actual financial performance willvary so that the distribution rate may exceed the Fund's actual total returns. The Fund does not anticipate borrowing to obtain the cash necessary to make its distributions; however, in the event that the Fund's distribution rate exceeds its actual returns, the Master Fund may be required to liquidate investments in order to make such a distribution. To the extent that the Fund's total return exceeds the distribution rate for an extended period of time, the Fund may increase the distribution rate or distribute supplemental amounts to investors. Conversely, if the Fund's total return is less than the distribution rate for an extended period of time, the Fund will be drawing upon its net assets to meet the distribution payments. The Master Fund may also make periodic distributions to the Fund in order to enable the Fund to meet its operating expenses and costs.

[13] In connection with any change in distributionpolicies, the Fund will provide written advance notice to investors.

[14] NAV per Master Fund Unit is computed bydividing the value of all assets of the Master Fund (including any accrued interest and dividends), less all liabilities (including accrued expenses and distributions declared but unpaid), by the total number of Master Fund Units outstanding. Under the Master Fund's current operational procedures, the Master Fund's net asset value is calculated after close of the Amex each day. The values of the Master Fund's exchange-traded futures and forward contracts and options on futures and forward contracts are valued at the settlement price determined by the principal exchange through which they are traded. Market quotes for the Master Fund's exchange-traded futures and forward contracts and options on futures and forward contracts may not be readily available if a contract cannot be liquidated due to the operation of daily limits or, due to extraordinary circumstances, the exchanges or markets on which the investments are traded do not open for trading the entire day and no other market prices are available. In addition, events may occur after the close of the relevant market, but prior to the determination of the Master Fund's net asset value, that materially affect the values of the Master Fund's investments. In such circumstances, the Master Fund will use an independent pricing service to value such investments. The Commodity Sub-Advisor will review the values as determined by the independent pricing service and discuss those valuations with the pricing service if appropriate based on guidelines established by the Manager that it believes are consistent with industry standards. The values of the Master Fund's OTC derivatives will be valued by the Commodity Sub-Advisor by taking either the arithmetic mean of prices obtained by several dealers, the prices as determined by the average of two (2) or more independent means or the prices as reported by an independent pricing service. In the event the Commodity Sub-Advisor uses an independent pricing service to value any of its commodity futures and forward contract, options on futures and forward contract and OTC derivatives, the pricing service typically will value such commodity futures and forward contracts, options on futures and forward contract and OTC derivatives using a wide range of market data and other information and analysis, including reference to transactions in other comparable investments if available. The procedures of any independent pricing service provider will be reviewed by the Manager on a periodic basis.

asset value per Master Fund Unit will be equal.

The normal trading hours for those investments of the Fund traded on the various commodities exchanges may differ from the normal trading hours of the Amex, which are from 9:30 a.m. to 4 p.m. ET. Therefore, there may be time periods during the trading day where the Shares will be trading on the Amex, but the futures contracts on various commodity exchanges will not be trading. The value of the Shares may accordingly be influenced by the non-concurrent trading hours between the Amex and the various futures exchanges on which the futures contracts based on the underlying commodities are traded.

The trading prices of the Fund's Shares listed on the Amex may differ from the NAV and can be affected not only by movements in the NAV, but by market forces of supply and demand, economic conditions and other factors as well. Accordingly, the trading prices of the Shares should not be viewed as a real-time update of the NAV.

Shares will be registered in book entry form through DTC. Trading in the Shares on the Exchange will be effected until 4 p.m. ET each business day. The minimum trading increment for such shares will be $.01.

Underlying Commodity Interests Information

The daily settlement prices for the commodity futures and forward contracts held by the Master Fund are publicly available on the Web sites of the futures and forward exchanges trading the particular contracts. Various data vendors and news publications publish futures prices and data. The Exchange represents that futures, forwards and related exchange-traded options quotes and last sale information for the commodity contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that complete real-time data for such futures, forwards and exchange-traded options is available by subscription from Reuters and Bloomberg. The relevant futures and forward exchanges also provide delayed futures and forward contract information on current and past trading sessions and market news free of charge on their respective Web sites. The contract specifications for the futures and forward contracts are also available from the futures and forward exchanges on their Web sites as well as other financial informational sources. Information related to OTC commodity options is disclosed by the Fund on a monthly basis as discussed below.

Availability of Information Regarding the Shares

The Web site for the Fund and the Manager, *http://www.nuveen.com*, which will be publicly accessible at no charge, will contain the following information: (a) The prior business day's NAV and the reported closing price; (b) calculation of the premium or discount of such price against such NAV; and (c) other applicable quantitative information. During the initial offering period, the Fund's prospectus also will be available on the Fund's Web site.

The Fund's total portfolio holdings will also be disclosed and updated on its Web site on each business day that the Amex is open for trading.[15] This Web site disclosure of portfolio holdings (as of the previous day's close) will be made daily and will include, as applicable: (a) The name and value of each commodity investment; (b) the value of over-the-counter commodity put options and the value of the collateral as represented by cash; (c) cash equivalents; and (d) debt securities held in the Fund's portfolio. The values of the Fund's portfolio holdings will, in each case, be determined in accordance with the Fund's valuation policies.

As described above, the NAV for the Fund will be calculated and disseminated daily. The Manager has represented to the Exchange that the NAV will be disseminated to all market participants at the same time. The Exchange will also make available on its Web site daily trading volume, closing prices, and the NAV. The closing price and settlement prices of the futures contracts held by the Master Fund are also readily available from the relevant futures exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Web site at *http://www.amextrader.com* to the Manager's Web site.

As noted above, State Street will calculate the NAV of the Master Fund once each trading day shortly after 4 p.m. ET. The NAV will be disclosed on the Fund's Web site and the Exchange's Web site.

Termination Events

The Fund and MasterFund will dissolve in certain prescribed circumstances.[16] Upon termination of the Fund, shareholders will surrender their shares and receive in cash their portion of the value of the Fund.

Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in proposed Rule 1602 for initial and continued listing of the Shares. A minimum of 2,000,000 shares will be required to be publicly distributed at the start of trading. It is anticipated that the initial price of a share will be approximately $25. The Fund will accept subscriptions for a minimum of 100 shares during the initial offering which is expected to last no more than 60 days. After the completion of the initial offering, shares can be bought and sold throughout the trading day like any other publicly-traded security. The Exchange believes that the anticipated minimum number of shares outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the Fund's objectives.

The Fund has represented to the Exchange that, for initial and continued listing of the Shares, it will be in compliance with Section 803 of the Amex Company Guide (Independent Directors and Audit Committee) and Rule 10A–3 under the Act.

Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of the Fund is $5,000. In addition, the annual listing fee applicable under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of shares in all series of the Fund outstanding at the end of each calendar year.

Trading Rules

The Shares are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. Shares will trade on the Amex until 4 p.m. ET each business day and will trade in a minimum price variation of $0.01 pursuant to Amex Rule 127–AEMI. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205–AEMI) will also apply.

Amex Rule 154–AEMI(c)(ii) provides that stop and stop limit orders to buy or sell a security the price of which is

[15] The total portfolio holdings will be disseminated to all market participants at the same time.

[16] *See* Form 19b–4 of the proposed rule change for a detailed description of such termination events.

derivatively priced based upon another security or index of securities, may be elected by a quotation, as set forth in subparagraphs (c)(ii)(1)–(4) of Rule 154–AEMI. The Shares are eligible for this treatment.

The Exchange states that Amex Rule 126A–AEMI complies with Rule 611 of Regulation NMS, which requires among other things, that the Exchange adopt and enforce written policies and procedures that are reasonably designed to prevent trade-throughs of protected quotations.[17]

The Shares will generally be subject to the Exchange's stabilization rule, Rule 170–AEMI, except that specialists may buy on ''plus ticks'' and sell on ''minus ticks,'' in order to bring the Shares into parity with the underlying commodity or commodities and/or futures contract price. Proposed Commentary .01 to Rule 1603 sets forth this limited exception to Rule 170-AEMI.[18]

The trading of the Shares will be subject to certain conflict of interest provisions set forth in proposed Amex Rules 1603 and 1604. Rule 1603 provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market-maker in an underlying asset, related futures contract or option or any other related derivative. An exception to the general prohibition in Rule 1603 provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives. Rule 1604 provides that specialists handling the Shares provide the Exchange with all necessary information relating to their trading in underlying physical assets or commodities, related futures or options on futures, or any other related derivatives. In addition, members and member organizations will be subject to Commentary .03 to proposed Rule 1600 prohibiting such member or member organizations from entering into the Exchange's order routing system multiple limit orders as agent (*i.e.*, customer agency orders).

Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange notes that, pursuant to Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Circular will discuss the special characteristics and risks of trading this type of security. Specifically, the Circular, among other things, will discuss what the Shares are, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction during the initial public offering, applicable Amex rules, and trading information and applicable suitability rules. The Circular will also explain that the Fund is subject to various fees and expenses described in the Registration Statement. The Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities and note the respective jurisdictions of the SEC and CFTC. The Circular will also note that the forward contracts are traded on the LME, which is subject to regulation by the Securities and Investment Board in the United Kingdom and the Financial Services Authority. In addition, the Circular will indicate that OTC instruments or products may effectively be unregulated.

The Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Shares. The Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Circular will disclose that the NAV for shares will be calculated shortly after 4 p.m. ET each trading day.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares and to deter and detect violations of Exchange rules. The Amex will rely on its existing surveillance procedures governing Index Fund Shares. The Exchange currently has in place Information Sharing Agreements with ICE FUTURES, LME and NYMEX for the purpose of providing information in connection with trading in or related to futures contracts traded on their respective exchanges. The Exchange also notes that the CBOT, CME, and NYBOT are members of the Intermarket Surveillance Group (''ISG''). As a result, the Exchange asserts that market surveillance information is available from the CBOT, CME, and NYBOT through ISG, if necessary, due to regulatory concerns that may arise in connection with the futures contracts.

Limitation of Exchange Liability

Proposed Amex Rule 1605 provides that the Exchange and any of its agents will not be liable for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying portfolio value, NAV or other information relating to the purchase, redemption or trading of Trust Units, resulting from: (i) Any negligent act or omission by the Exchange or any agent of the Exchange; or (ii) any act, condition or cause beyond the reasonable control of the Exchange or its agent.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act[19] in general, and furthers the objectives of Section 6(b)(5),[20] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

[17] *See* Securities Exchange Act Release No. 54552 (September 29, 2006), 71 FR 59546 (October 10, 2006) (SR–Amex–2005–104).

[18] Consistent with the adoption by the Commission of amendments to Regulation SHO and the removal of Rule 10a–1 under the Act and the Exchange's rescission of Amex Rule 7 and, the Shares may be sold short without regard to the former ''tick'' tests, *i.e.*, the ''plus tick'' and ''zero-plus tick.'' *See Securities Exchange Act* Release Nos. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007) (File No. S7–21–06) and 56278 (August 17, 2007), 72 FR 48707 (August 24, 2007) (SR–Amex–2007–72).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–Amex–2006–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–96. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–96 and should be submitted on or before October 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Nancy M. Morris,

Secretary.

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56460; File No. SR–CBOE–2007–84]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Amend CBOE's Rule Pertaining to Verification Requests for Trade Reporting Minor Rule Violations

September 18, 2007.

On July 18, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 17.50 (Imposition of Fines for Minor Rule Violations) Interpretation and Policy .02(b) regarding verification requests for fines imposed pursuant to the provisions of CBOE Rule 17.50(g)(4) (Failure to Submit Trade Information on Time and Failure to Submit Trade Information to the Price Reporter). The proposed rule change was published for comment in the **Federal Register** on August 17, 2007.[3] The Commission received no comments regarding the proposal.

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[5] which requires that the rules of an exchange be designed to, among other things, protect investors and the public interest. The Commission believes that the proposed rule change, by extending the ''look-back'' period for determining the maximum number of verification requests for trade reporting violations, would make a reasonable adjustment to its MRVP review process.

The Commission also believes that handling violations of trade reporting rules pursuant to the MRVP is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[6] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. The Commission also finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[7] which governs minor rule violation plans. The Commission believes that the proposed change to the MRVP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with CBOE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56239(August 10, 2007), 72 FR 46257.

[4] In approving this proposed rule change, theCommission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[7] 17 CFR 240.19d–1(c)(2).

However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that CBOE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires formal disciplinary action under CBOE Rules 17.1–17.10.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [8] and Rule 19d–1(c)(2) under the Act,[9] that the proposed rule change (SR–CBOE–2007–84), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 240.19d–1(c)(2).

[10] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56467; File No. SR–CBOE–2007–108]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Appointment Costs for Options on the CBOE Russell 2000 Volatility Index and the CBOE Nasdaq-100 Volatility Index

September 19, 2007

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 11, 2007, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE rules relating to the appointment cost for options on the CBOE Russell 2000 Volatility Index (RVX) and the CBOE Nasdaq-100 Volatility Index (VXN). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 change is to amend CBOE Rule 8.3 and Rule 8.4 to establish appointment costs for RVX and VXN options before trading commences in those options classes on the Hybrid 2.0 Platform.[5] CBOE proposes to amend Rule 8.3(c)(i) and Rule 8.4(d) to specifically reference RVX and VXN options as Tier A+ option classes trading on the Hybrid 2.0 Platform, with an appointment cost of .25 each. CBOE notes that these new appointment costs for RVX and VXN options will be the initial appointment costs because these two classes are not currently trading.[6]

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] CBOE Rule 1.1(aaa) defines the Hybrid 2.0 Platform.

[6] CBOE has separately received approval to list and trade these products. *See* Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR–CBOE–2003–40 to list and trade VXN options); *see also* Securities Exchange Act Release No. 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR–CBOE–2006–73 to list and trade RVX options).

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[9] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

Under Rule 19b–4(f)(6) of the Act,[12] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public

[7] 15 U.S.C. 78(f)(b).

[8] 15 U.S.C. 78(f)(b)(5).

[9] The Exchange has fulfilled this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect upon filing and it may begin trading RVX and VXN options without delay. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay. The Commission notes that the Exchange has already received approval to list and trade RVX and VXN options, and waiving the 30-day operative delay would allow the Exchange to begin trading these products without delay. For these reasons, the Commission designates the proposal to be operative upon filing.[13]

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–2007–108 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–2007–108. 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 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–2007–108 and should be submitted on or before October 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18834 Filed 9–24–07; 8:45 am]

BILLING CODE 8010–01–P

[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56453; File No. SR–ISE–2007–84]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

September 18, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2007, the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on one ''Premium Product.''[5] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and at the Exchange's Web site (*http://www.ise.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 is proposing to amend its Schedule of Fees to establish fees for transactions in options on the iShares S&P Latin America 40 Index Fund (''ILF'').[6] The Exchange represents that ILF is eligible for options trading because it constitutes ''Fund Shares,'' as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged

[5] ''Premium Products'' is defined in the ISE Schedule of Fees as the products enumerated therein.

[6] iShares ® is a registered trademark of Barclays Global Investors, N.A. (''BGI''), a majority-owned subsidiary of Barclays Bank PLC. ''Standard & Poor's ®,'' ''S&P ®,'' ''S&P Latin America 40 Index,'' are trademarks of The McGraw-Hill Companies, Inc. (''McGraw-Hill''), and have been licensed for use for certain purposes by BGI. All other trademarks and service marks are the property of their respective owners. iShares S&P Latin America 40 Index Fund (''ILF'') is not sponsored, sold or endorsed by Standard & Poor's, (''S&P''), a division of McGraw-Hill, and S&P makes no representation regarding the advisability of investing in ILF. BGI and S&P have not licensed or authorized ISE to (i) Engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on ILF or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on ILF or with making disclosures concerning options on ILF under any applicable federal or state laws, rules or regulations. BGI and S&P do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on ILF.[7] The amount of the execution fee and comparison fee for products covered by this filing shall be $0.15 and $0.03 per contract, respectively, for all Public Customer Orders[8] and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[9] Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be $0.37 and $0.03 per contract, respectively. Further, since options on ILF are multiply-listed, the Payment for Order Flow fee shall apply to this product. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because it establishes or changes a due, fee, or other charge applicable only to a member, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(2)[13] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2007–84 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–84. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–84 and should be submitted on or before October 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18820 Filed 9–24–07; 8:45 am]

BILLING CODE 8010–01–P

[7] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2008, these fees will also be charged to Linkage Orders (as defined in ISE Rule 1900). *See* Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007) (SR–ISE–2007–55).

[8] ''Public Customer Order'' is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. ''Public Customer'' is defined in Exchange Rule 100(a)(38) as a person that is not a broker or dealer in securities.

[9] The execution fee is currently between $.21 and $.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $.03 per contract side.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56468; File No. SR–NSCC–2007–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Allow As-of Fixed Income Trades To Be Processed in the Continuous Net Settlement System

September 19, 2007.

I. Introduction

On July 12, 2007, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2007–11 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 20, 2007.[2] The Commission received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

NSCC is modifying its procedures to allow as-of fixed income trades to be

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 56250(August 14, 2007), 72 FR 46528.

processed in NSCC's Continuous Net Settlement (''CNS'') system.

When NSCC revised and updated CNS in 2004 (referred to as the ''CNS Rewrite''), it provided the capability on any settlement day to take in and process transactions due for settlement that day provided the trades are recorded or compared prior to an established cut-off time in the morning.[3] This capability is currently provided for as-of equity transactions but has not yet been expanded to as-of fixed income transactions.[4] Rather, settlement of as-of fixed income corporate debt, municipal, and unit investment trust (''UIT'') trades (corporate debt, municipal, and UIT trades are collectively referred to as ''CMU'' trades) compared on or after their designated settlement date currently occurs on the business day following the day they are compared. Given that settlement risks associated with CMU trades would be reduced if they settled on an accelerated basis in the same manner that as-of equity trades are settled, NSCC is enhancing its fixed income processing to permit same day settlement of as-of fixed income transactions.[5] To accomplish this, NSCC is amending Procedure II (Trade Comparison and Recording Service) so that CNS-eligible as-of CMU trades matched on or after their originally designated settlement date will be processed in CNS on the day they are submitted for comparison so long as they compare prior to the cut-off time established for same day settlement, which currently is 11:30 a.m.[6] As-of trades not eligible for CNS processing will settle on a trade-for-trade basis. Trades that match after the designated cut-off time will continue to be assigned a settlement date of the next business day.

In addition, because these trades are effectively guaranteed upon comparison, risk associated with the trades will be mitigated through the existing component of the Clearing Fund formula, as set forth in Procedure XV (Clearing Fund Formula and Other Matters), that is designed to mitigate the risk to NSCC associated with trades that are processed on a settlement cycle shorter than three days. Under this component, activity specified for a shortened settlement cycle is isolated, and a charge is calculated.[7]

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[8] The Commission believes that NSCC's rule change is consistent with this Section because it should facilitate the prompt and accurate clearance and settlement of securities by increasing automated trade processing and by expanding the types of trades eligible for CNS netting and NSCC settlement.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder. In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2007–11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18825 Filed 9–24–07; 8:45 am]

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[3] Securities Exchange Act Release No. 50026 (July15, 2004), 69 FR 43650 [File No. SR–NSCC–2004–01].

[4] NSCC's systems did not have the capacity forsame day settling trades for fixed income transactions in 2004.

[5] The settlement of cash and next day CMU tradeswhich are compared by NSCC will continue to be the responsibility of the parties to the trades.

[6] In addition, references in Procedure VII (CNSAccounting Operation) that currently note that debt securities are not eligible for such accelerated settlement will be removed.

[7] The component calculates a charge based on theaverage of a member's charges for the specified activity on the three days with the highest charges calculated for the specified activity over the most recent twenty day period. Securities Exchange Act Release No. 54816 (November 27, 2006), 71 FR 69604 [File No. SR–NSCC–2006–09].

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56455; File No. SR–NYSE–2007–83]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to NYSE Rule 104.10 (''Dealings by Specialists'')

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 14, 2007 the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend NYSE Rule 104.10 to: (i) Extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(iv) to March 31, 2008; (ii) remove the ''active securities'' limitation on Conditional Transactions that establish or increase a specialist's position and reach across the market to transact with the NYSE's published quote; and (iii) make certain conforming changes to Rule 104.10(5). The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE 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 NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

(1) *Rule Filing History.*

On October 5, 2006, to coincide with the Exchange's implementation of Phase III of the NYSE HYBRID MARKET℠, the NYSE began operating on a pilot basis, among other rules, changes to Rule 104.10 (''Stabilization Rule'').[3] The Stabilization Rule governs specialists' dealings in assigned stocks including restrictions on specialists' ability to trade as a dealer in their assigned stocks. As will be described in greater detail below, the Stabilization Proposal provided additional opportunities for specialists to trade on a proprietary basis. On December 1, 2006, the Commission approved the Stabilization Proposal but required that subsection 104.10(6) of the Rule continue to operate as a pilot (''Conditional Transactions'') through June 30, 2007.[4]

(2) *Summary of the Stabilization Proposal.*

Rule 104 governs specialist dealings in the market. Specialists' transactions for their own accounts are subject to specific expectations of performance. These include a specialist's affirmative and negative obligations. Pursuant to these obligations specialists have a duty to ensure that his or her principal transactions are designed to contribute to the maintenance of price continuity with reasonable depth.

The affirmative obligation requires a registered specialist to maintain adequate minimum capital based on his or her registered securities and use said capital to engage in a course of dealings for his or her own account to assist in the maintenance, so far as practicable, of a fair and orderly market.[5] Thus, pursuant to the affirmative obligations, registered dealers on primary exchanges are required to commit the dealer's capital in their registered securities in order to maintain a fair and orderly market.

The negative obligation, which is part of Exchange Rule 104 requires that specialists allow public orders to be executed against each other without undue dealer intervention and that specialists not deal in a manner that is inconsistent with the overall objective of maintaining a fair and orderly market. Specifically, Rule 104(a) provides:

> No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

Thus, prior to the Stabilization Proposal, NYSE Rule 104.10(5) required that specialist proprietary transactions be effected in a reasonable and orderly manner in relation to the general market, the market in their assigned stocks, and the adequacy of the specialist's position to the immediate and reasonably anticipated needs of the market. For example, a specialist was not permitted to effect a transaction that would acquire or increase a position unless it was necessary to render the specialist's position adequate for the immediate or anticipated needs of the market. Specialists were precluded from purchasing stock at a price above the last sale (in the same trading session) or from purchasing more than 50% of the stock offered on a ''zero plus tick'' (*i.e.* at the same price as the last sale, when such last sale was higher than the previous, differently priced sale of stock on the Exchange). Rule 104.10(6) applied similar standards when a specialist was liquidating or reducing a position. A specialist could, however, effect these types of transactions with the approval of a floor official.

The Stabilization Proposal retained the basic standard that a specialist's dealings must be reasonably necessary for the maintenance of a fair and orderly market, and that transactions that are with the trend of the market may have to be accompanied by appropriate re-entry on the opposite side of the market. In place of the then existing last transaction or ''tick'' test, the Exchange proposed to identify four types of transactions: ''Neutral,'' ''Non-Conditional'' ''Conditional'' and ''Prohibited.''

Neutral Transactions are purchases or sales that liquidate or decrease a specialist's position. These transactions must be effected in a fair and orderly manner to render the specialist position adequate to the market's needs, consistent with the specialist's negative obligations, but are not subject to price restrictions or to floor official approval. The obligation to maintain a fair and orderly market may require the specialist to enter the market on the opposite side, which could be the case if market conditions required the specialist to meet his affirmative obligations. The NYSE's rationale for this change was based in part on the recognition that position-reducing transactions are beneficial to the market because the specialists are adding liquidity to the market.

Non-Conditional Transactions are seven enumerated types of trades which increase or establish a position other than transactions that reach across the market.[6] Specialists are permitted to effect these transactions without regard to price and without floor official approval. The NYSE believes that these transactions, because they reflect instances where an independent source establishes the price, are unlikely to create a conflict of interest or to ''lead the market.'' Even though these transactions may establish the bid or offer, they are initiated by other market participants and not by the specialist. The NYSE also believes that, in the Hybrid Market where trading is substantially electronic, the speed and frequency of executions and quote changes preclude the specialist from being able to track accurately price ticks or to allow for floor official involvement. Re-entry on the opposite side of the market may be required for

[3] *See* Securities Exchange Act Release No. 54578 (October 5, 2006), 71 FR 60216 (October 12, 2006) (SR–NYSE–2006–82). On October 6, 2006, NYSE specialist firms LaBranche & Co. and Kellogg Specialist Group commenced operating pursuant to the Stabilization Rule in two NYSE-listed securities, American Express Company (AXP) and Equity Office Property Trust (EOP), respectively.

The operation of the Pilot implemented pursuant to SR–NYSE–2006–82 was later modified on October 13, 2006 to, among other things, clarify that Rule 104.10(6) was included in the operation of the Pilot. *See* Securities Exchange Act Release No. 54610 (October 16, 2006), 71 FR 62142 (October 23, 2006) (SR–NYSE–2006–84).

The proposed amendments to the Stabilization Rule (collectively referred to herein as ''Stabilization Proposal'') were filed on September 22, 2006 in SR–NYSE–2006–76. On October 25, 2006, the Exchange amended SR–NYSE–2006–76 to clarify certain provisions of the proposal, which was ultimately approved by the Commission on December 1, 2006. *See* Securities Exchange Act Release No. 54860 (December 1, 2006), 71 FR 71221 (December 8, 2006) (SR–NYSE–2006–76).

[4] *See* Securities Exchange Act Release No. 54860, *supra* note 3. On June 28, 2007 the Exchange filed with the Commission to extend the operation of the Stabilization Pilot until September 30, 2007. *See* Securities Exchange Act Release No. 55995 (June 29, 2007), 72 FR 37288 (July 9, 2007) (SR–NYSE–2007–58).

[5] *See* 17 CFR 240.11b–1.

[6] NYSE Rule 104.10(5)(i)(a)(II)(b) states that the transactions without regard to price may be made in order to: (i) Match another market's better bid or offer price; (ii) bring the price of a security into parity with an underlying or related security or asset; (iii) add size to an independently established bid or offer on the exchange; (iv) purchase at the published bid price on the Exchange; (v) sell at the published offer price on the Exchange (vi) purchase or sell at a price between the Exchange published bid and published offer; and (vii) purchase below the published bid or sell below the published offer on the Exchange.

the specialist to meet its affirmative obligations or to maintain a fair and orderly market.

Prohibited Transactions are certain transactions during the last 10 minutes of trading and are designed to prevent the specialist from setting the closing price.

Conditional Transactions are specialists' transactions in an active security that establishes or increases a position and reaches across the market to trade as the contra-side to the Exchange published bid or offer. Conditional transactions may only be executed in an ''active security.'' Active securities include those securities that are part of the S&P 500 Stock Index(c), securities trading on the Exchange during the first 5 trading days following their initial public offering, and securities declared to be active securities by a floor official.[7]

Conditional Transactions may have additional re-entry obligations pursuant to the rule. Specifically, pursuant to NYSE Rule 104.10(6)(iii) ''Appropriate'' re-entry means ''re-entry on the opposite side of the market at or before the price participation point or the ''PPP'').[8] Depending on the type of Conditional Transaction a specialist's obligation to re-enter may be immediate or subject to the same re-entry conditions of Non-Conditional Transactions.[9] In any event, Conditional Transactions remain subject to a specialist's overall negative obligation as discussed above.

Specialist transactions in securities not within the definition of ''active'' securities continue to be governed by the ''tick test'' and floor official approval requirements described above that are now set forth in Rule 104.10(5)(i)(B)(I).

In the Stabilization Proposal, the Exchange asserted that it believed the types of transactions described above were suitable for all securities. While the Commission acknowledged the considerable changes in the national market system, it stated that it believed that the Stabilization Proposal represented a significant change in the roles and obligations of specialist at the Exchange and thus required that the NYSE to implement the proposed Conditional Transactions only for active securities as a pilot.[10] The Commission further stated that, before it decided whether to extend the operation of the rule or to approve the rule on a permanent basis, it would require the NYSE to provide data and analysis on the impact of the rule change.[11]

(3) *The Exchange's Analysis of the Conditional Transaction Pilot.*

The Exchange has closely monitored its market quality as it made changes to its operations, including the implementation of the Hybrid Market and the pilot that allowed specialists to effect Conditional Transactions. The Exchange has performed a review [12] of the market quality for the period July 1, 2006 to September 30, 2006, compared to the market quality for the period from April 1, 2007 through June 30, 2007 and the NYSE states that its review shows that overall there has been a narrowing of the effective spread for marketable orders and a lowering of volatility. The percentage of trades executed automatically substantially increased. Other indicators remained generally the same except for the percentage of times that the NYSE set the National Best Bid or Offer.

In addition, the Exchange reviewed data related to the specialists' re-entry requirement. Specifically, the Exchange reviewed the specialist's re-entry quote and execution activity on the opposite side of the market at 30-second and one-minute intervals for the month of April 2007. The Exchange states that the data showed that specialists effected Conditional Transactions sparingly and that, in those instances where specialists effected Conditional Transactions, the data showed that specialist overall complied with their obligations to re-enter liquidity on the opposite side of the market.

The Exchange further compared the 84 securities that are listed on the NYSE and are included in the S&P 500 index (''S&P 500'') operating in the Conditional Transaction Pilot that that had the lowest consolidated volume for the months of March and April 2007. The 84 securities were divided into two deciles containing 42 securities per decile. The Exchange created a matched sample for these two deciles by finding other NYSE-listed securities not included in the S&P 500 (''non-S&P 500'') that had comparable consolidated volumes, Volume Weighted Average Price (''VWAP'') and market capital.[13] The Exchange believes that its review showed that there was no discernible difference between the change in market quality in the lowest two deciles of the S&P 500 securities operating pursuant to the Conditional Transaction Pilot as compared to similar securities in the non-S&P 500 securities. The Exchange noted a difference in the market quality statistics for the S&P 500 securities as compared to the non-S&P 500 matched sample. However, upon further review, the Exchange noted that the differences were present both before and after the Conditional Transaction Pilot, which suggests that a factor other than the Conditional Transaction Pilot was the cause of the noted difference. The Exchange believes that the most probable cause of the noted difference was the inclusion in the S&P 500. The

[7] Pursuant to current NYSE Rule 104.10(6)(c), a Floor Official may designate a security active when such security has exhibited substantially greater than normal trading volume and is, in the Floor Official's judgment likely to continue to sustain such higher volume during the remainder of the current trading session.

[8] NYSE Rule 104.10(6)(iv)(a) provides that the PPP identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a specialist is meeting its obligations. The Exchange issued guidance regarding PPPs in January 2007. *See* NYSE Member Education Bulletin 2007–1.

[9] NYSE Rule 104.10(6)(iv)(c) requires immediate re-entry following Conditional Transactions that is:

(I) A purchase that (1) reaches across the market to trade with an Exchange published offer that is above the last differently priced trade on the Exchange and above the last differently priced published offer on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published offer size.

(II) A sale that (1) reaches across the market to trade with an Exchange published bid that is below the last differently priced trade on the Exchange and below the last differently priced published bid on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published bid size.

Pursuant to current NYSE Rule 104.10(6)(v) Conditional Transactions that involve:

(a) A specialist's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange; and

(b) A specialist's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange are subject to the re-entry requirements for Non-Conditional Transactions pursuant to NYSE Rule 104.10(5)(i)(a)(II)(c).

Rule 104.10(5)(i)(a)(II)(c) provides:

Re-entry Obligation Following Non-Conditional Transactions—The specialist's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market trend after effecting one or more Non-Conditional Transactions. Such re-entry transactions should be commensurate with the size of the Non-Conditional Transactions and the immediate and anticipated needs of the market.

[10] *See* Securities Exchange Act Release No. 54860, *supra* note 3, at 71230.

[11] *Id.*

[12] *See* Appendix 3A, which is available on the NYSE Web site at the following link: *http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview.*

Appendix 3A is also available on the Commission Web site at *http://www.sec.gov/rules/sro/nyse.shtml.*

[13] *See* Appendices 3B and 3C, which are available on the NYSE Web site at the following link: *http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview.*

Appendices 3B and 3C are also available on the Commission Web site at *http://www.sec.gov/rules/sro/nyse.shtml.*

stocks in the S&P 500 appear to have inherently different market quality characteristics from those not in the S&P 500. The changes in market quality were similar for both groups. The Exchange therefore believes that the Conditional Transaction Pilot was not the cause of the market quality differences in the samples. Therefore, the Exchange believes that the data supports the conclusion that the Conditional Transaction Pilot has not had a detrimental effect on market quality.

Thus, in analyzing the data related to the Conditional Transaction Pilot, the Exchange believes that it is clear that specialists have acted appropriately in regard to Conditional Transactions and have re-entered the market as required, with no discernable adverse impact on liquidity or market quality. The Exchange therefore believes that Conditional Transaction Pilot should be modified to include all stocks traded on the NYSE.

(4) *Inclusion of All NYSE Traded Securities in the Conditional Transaction Pilot.*

The NYSE now seeks approval to extend the term of the Conditional Transaction Pilot to March 31, 2008 and to make it applicable to all securities traded on the NYSE. As explained more fully below, the Exchange believes that it is appropriate to provide specialists the same ability to effect Conditional Transactions in all securities traded on the Exchange.

(5) *Importance of the Specialist Role to the NYSE's Hybrid Market Model.*

The Exchange states that the specialist is critical to the NYSE's Hybrid Market model. Advances in technology have virtually obviated the specialists' time and place advantage. The rate of trading participation by specialists in specialist stocks has been significantly reduced. Therefore, the Exchange believes that the basis for concern over specialist conflicts of interest (and the consequent ability to trade to the detriment of the public) is also diminished. The NYSE believes that these factors and specialist re-entry obligations support the expansion of specialists trading opportunities in all of the securities traded on the NYSE.

The amendments to NYSE Rule 104.10(5) and (6) in this filing should be seen as part of the NYSE's goal of providing the market with the ability to seek the best price by submitting orders to a traditional floor-based auction process or by obtaining virtually instantaneous execution in an electronic platform. The NYSE believes that specialists play a critical role in achieving this goal, but it is in many ways a different role from the ''traditional'' function of specialists prior to implementation of the NYSE's current market structure. The Exchange states that, most importantly, it has attempted to balance concerns over the potential conflict of interest between specialists' agency function in the auction process and the specialists' ability (and need) to trade for their own account as a dealer.

The Exchange believes that specialists provide an extraordinary benefit to the NYSE market by using their capital to cushion market volatility. Specialists' capital commitment provides depth, and lowers volatility and overall execution costs for investors. Furthermore, specialists add liquidity to the market when there is little or no liquidity, bridging the gap between supply and demand by purchasing when no one else is buying and by overall maintaining a fair and orderly market. In order for specialists to continue providing that benefit, they must be allowed greater flexibility in trading for their dealer accounts to be competitive with other market participants in times of market stability so that they may be adequately positioned to step in during times of market instability. The Exchange believes that the ability of the specialists to effect Conditional Transactions allows specialists, to a greater degree, to manage the inventory of the dealer account to provide more liquidity against the market trend and thus moderate volatility.

Moreover, the NYSE believes human judgment is particularly valuable in less liquid securities because the service provided by specialists is even more critical during the opening and closing of trading in such securities, particularly in times of uncertainty such as when an earnings surprise, news, or an outside event leads to market volatility and/or instability. In these cases, the specialists' trading judgment, exercised in carrying out their affirmative obligations, results in reduced volatility and more stable prices.

But while the Hybrid Market is intended to combine the benefits of specialist and floor broker expertise with the speed, certainty and anonymity of electronic executions, implementation of this system has created a significantly different trading environment for specialists. Historically, the NYSE specialist's unique dual role as broker and dealer afforded him or her an informational advantage over other market participants because, in that role, the specialists served as the main conduit of the order flow information in his or her subject security. As a result of this information advantage, specialists trading for their own account were constrained by affirmative and negative obligations.

Today, the Exchange believes that there is a virtual elimination of the informational advantage of the specialist. Certain order types that previously required specialist intervention for execution are now handled systemically and automatically. For example, in December 2006 the Exchange changed its stop order handling process to make stop orders no longer visible to the part of the Display Book that the specialist ''sees.'' [14] Currently, when a transaction on the Exchange results in the election of a stop order that had been received prior to such transaction, the elected stop order is sent as a market order to the Display Book and the specialist's system employing algorithms where it is handled in the same way as any other market order. The specialist therefore has no information regarding the status of stop orders.

Moreover, the quantity and quality of information that is available solely to the specialist has decreased. In the auction market, the specialist had information about all orders on the Display Book and also received information from the Crowd. Floor Brokers, Registered Competitive Market Makers (''RCMMs'') and Competitive Traders (''CTs'') all interacted verbally with the specialists and each other in the Crowd at the trading post for each security. Through this interaction and the proximity of the other market participants, the specialist was in possession of information not readily available to all other market participants. In his or her position, the specialist had information directly from the Crowd and the Display Book. Additionally, the specialist was able to glean incidental information based on his or her observation of the communication between other market participants.

Currently, the Hybrid Market provides Floor brokers with electronic trading tools that have resulted in less personal and verbal interaction between Floor brokers and specialists.[15] A Floor broker is now able to electronically represent his or her customer's interest through the use of e-quotes and d-quotes.

[14] *See* Securities Exchange Act Release No. 54820 (November 27, 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65) (clarifying certain definitions and the systematic processing of certain orders in the Hybrid Market).

[15] Currently, approximately 90% of the transactions executed on the Exchange are done through electronic executions.

Moreover, the electronic representation need not take place directly in front of the post and panel where the security is traded as the Exchange definition of Crowd has expanded the physical area encompassed in a Crowd. Today, a Crowd is one of three trading zones which is one of the three trading rooms operating as part of the NYSE Floor. The verbal information the specialist was once able to obtain from Floor broker's expressed interest is greatly reduced. Moreover, the Exchange believes that the observations of Crowd to Crowd transactions offer little if any information to the specialists. A specialist at a trading post is unable to know with any degree of certainty the security being traded by Floor brokers electronically bidding and offering in front of him or her.

The Exchange believes that the reduced ability of a specialist to glean market information because a specialist's intervention is no longer required to receive an execution, the specialist's inability to see stop orders and the dramatic increase in transparency with respect to the Display Book through, among other things, Exchange initiatives like Exchange OPENBOOK™ make it clear that the specialist no longer possesses an information advantage over other market participants. In fact, it may be argued that the specialist has less information than some market participants with the increased internalization of orders. Often prior, to orders being sent to an exchange for execution, the broker-dealer will ''shop'' the order. In some instances, the broker-dealer will execute all or part the customer order against its principal account with any residual being sent to an exchange for execution. Internalization of order flow limits price discovery and does not result in transparency. As such, the specialist can be said, in certain instances, to be at an informational disadvantage to other market participants.

The Exchange states that in approving the Stabilization Proposal, the Commission agreed with the Exchange that trade-by-trade negative compliance obligations previously embodied in the so-called Saperstein Interpretation[16] established seventy years ago no longer address the realities of the modern market. The Commission's approval order stated:

> The Commission believes that eliminating the trade-by-trade standard with respect to the negative obligation should enhance the specialists' ability to fulfill its obligation to maintain a fair and orderly market. The Commission believes that increased automation and competition—both within the Hybrid Market and in the markets generally—are significant factors, among others, that affect the ability of specialists to make trade-by-trade analysis regarding their negative obligations. The Commission finds that permitting specialists to consider the reasonable necessity of their transactions under negative obligations without a transaction-by-transaction test, is appropriate and consistent with the Act. The Commission emphasizes that it is not eliminating the negative obligation (footnote omitted). Therefore, specialists must continue to assess their need to trade and limit their proprietary trades to those reasonably necessary to allow the specialists to maintain a fair and orderly market.[17]

The re-interpretation of the Saperstein letter thus moved away from defining stabilization in terms of the last sale to focus on market conditions, the type of trade in question and the specialists' existing position.

The Exchange's proposal to allow specialists to effect Conditional Transactions in all securities is a request to further address the realities of the current market. The Exchange states that it does not in any way reduce the obligations imposed on them pursuant to NYSE Rule 104 to re-enter a transaction on the opposite side of the market and their negative obligation. The Exchange believes that these critically distinguishing obligations imposed on NYSE specialists, coupled with the empirical evidence that, when given the opportunity to effect Conditional Transactions in less liquid securities there is no discernable diminishment of market quality, justifies the extension of the specialist ability to effect Conditional Transactions in all securities.

For the reasons stated above, the Exchange believes that extending the ability of the specialist to effect Conditional Transactions to all securities will allow specialists to more effectively meet their affirmative and negative obligations by giving them the tools to better manage the inventory of the dealer account.

(6) *Exchange Continued Data Provision to the Commission.*

The Exchange represents that it will continue to provide the Division of Market Regulation and the Office of Economic Analysis with statistics related to market quality, specialist trading activity and sample statistics. The sample statistics include the daily Consolidated Tape volume in shares, daily number of trades, daily high-low volatility in basis points, and daily close price in dollars.

The Exchange will also calculate the specialist profit on round-trip Hit Bid and Take Offer (''HB/TO'') executions. This will be accomplished by measuring the specialist profit on HB/TO activity by taking the round-trip trading profits for all HB/TO trades where the specialist executes an offsetting trade within 30 seconds. In cases where the volume of the offsetting execution is less than the size of the HB/TO execution, the calculation will only include profits realized within the 30-second window.

The Exchange will further calculate the quote-based specialist re-entry ratio. Each re-entry price level will be categorized and reported separately. For example, if the specialist buys from the offer at $50.00 and then re-enters at $50.01, then this is categorized as a one cent re-entry. Similarly, if the specialist buys from the offer at $50.00 and then re-enters at $50.02, then this is categorized as a two cent re-entry. The categories will be in cent intervals at 0, 1, 2, 3, 4, and 5 or more cents. The time window for these calculations will also be in 30 seconds.

In addition, the Exchange will provide the Commission with data related to the average realized spread on specialist HB/TO executions. These calculations will be done using the same formula as Rule 605 of Regulation NMS under the Act.[18] Specifically, the average realized spread should be a share-weighted average of realized spreads. For specialist buys, it is double the amount of difference between the execution price and the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution. For specialist sells, it is double the amount of difference between the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution and the execution price.

All of the aforementioned information will be provided to the Commission on a monthly basis. The Exchange represents that it will also maintain average measures for each stock-day during a particular month in order to provide such information to the Commission upon request.

(7) *Surveillance.*

As noted in the NYSE's original Stabilization Rule filing, NYSE Regulation (''NYSER'') believes that it has appropriate surveillance procedures in place to surveil for compliance with the negative obligations of specialists. NYSER monitors, using a pattern and

[16] Securities Exchange Act Release No. 1117, 1937 SEC LEXIS 357 (March 30, 1937).

[17] *See* Securities Exchange Act Release No. 54860, *supra* note 3.

[18] 17 CFR 242.605.

practice and/or outlier approach, specialist activity that appears to cause or exacerbate excessive price movement in the market (since such transactions would appear to be in violation of a specialist's negative obligation). In this connection, NYSER surveils for specialist compliance with the PPP re-entry requirements and, based on its preliminary reviews of surveillance data, has not identified significant compliance issues to date. The Division of Market Surveillance of NYSER also monitors specialist trading to cushion such price movements.

(8) *Conclusion.*

The Exchange seeks to be able to modify and change its business model in order to continue to improve market quality. If the Exchange is to do this then it must be allowed to provide the specialists that operate on the Exchange with the flexibility to compete. The Exchange believes that this flexibility can be achieved by extending the specialists ability to effect Conditional Transactions in all securities.

The Exchange believes that its current stabilization rules do not afford specialists trading on the NYSE the necessary flexibility to manage the dealer account inventory. The Exchange believes that these rules are antiquated and inconsistent with the electronic trading environment that has virtually eliminated the specialists' agency role and information advantage. The Exchange believes that the proposed amendments regarding specialists' ability to effect Conditional Transactions will allow specialists on the Exchange to efficiently and systematically trade and quote in their securities and thus be in a position to fluidly manage their risk. Providing the specialists with the required flexibility to compete will add value to the Exchange market by encouraging them to continue to commit capital, thus benefiting the marketplace by increasing liquidity at prices outside the best bid and offer, bridging temporary gaps in supply and demand, and dampening volatility.

Given all the above, the NYSE believes that allowing specialists to effect Conditional Transactions in all securities on pilot basis until March 31, 2008 is appropriate at this time.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [19] of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [20] under the Act in that it seeks to assure economically efficient execution of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that the proposed rule change was developed in response to concerns expressed by certain member organizations. During the drafting of the rule filing and proposed rule, those member organizations reviewed an initial draft and provided the Exchange with written comments relating to specialists' obligations and actions during periods of instability. The Exchange states that it has incorporated these comments into the final rule proposal, but the Exchange has neither solicited nor received written comments on the final proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–83 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–2007–83. 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 NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–83 and should be submitted on or before October 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

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[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78k–1(a)(1).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56452; File No. SR–NYSEArca–2007–89]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Amend Fees for the Entry of Good Till Cancelled or Good Till Date Orders

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 28, 2007, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), 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 substantially prepared by the Exchange. On September 18, 2007, NYSE Arca filed Amendment No. 1 to the proposed rule change. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the section of its Schedule of Fees and Charges for Exchange Services (the ''Fee Schedule'') that applies to orders submitted by ETP Holders[5] identified with a time-in-force modifier of either Good Till Cancelled (''GTC'') or Good Till Date (''GTD'')[6] (either or both referred to herein as an ''Open Order Modifier(s)''). The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Arca 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 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 amend relevant sections of its Fee Schedule that apply to orders submitted to the Exchange that are affixed with an Open Order Modifier. This filing intends to clarify the intentions of the Exchange regarding fees and credits applicable to such orders since the introduction of Open Order Modifiers,[7] and to conform the Fee Schedule to its billing practice.

NYSE Arca Equities did not intend to offer, nor has it offered, the credits normally afforded to orders that provide liquidity within its book. According to the amended Fee Schedule, a limit order affixed with an Open Order Modifier that executes within the same day on which it was entered[8] will be subject to and eligible for all charges and credits currently afforded to limit orders not affixed with an Open Order Modifier. However, such orders, or any unexecuted portion thereof, that remain eligible for execution beyond the initial trading day are not eligible for any credits (*e.g.*, Liquidity Provider Credits) when subsequently executed.

The Exchange believes this filing to be consistent with its practices since the inception of the Open Order Modifiers, and with the information available to ETP Holders since their introduction.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[9] in general and furthers the objectives of section 6(b)(4)[10] in particular in that it is intended to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self Regulatory Organization's Statement on Burden on Competition

The 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to section 19(b)(3)(A)(ii) of the Act[11] and subparagraph (f)(2) of Rule 19b–4 thereunder[12] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2007–89 on the subject line.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* NYSE Arca Equities Rule 1.1(n) for definition of ''ETP Holders.''

[6] *See* NYSE Arca Equities Rule 7.31(c)(2).

[7] *See* Securities Exchange Act Release No. 53394 (March 1, 2006), 71 FR 11696 (March 8, 2006) (SR–PCX–2006–07).

[8] Limit orders affixed with an Open Order Modifier may be entered during any trading session, but are only eligible for execution during the Core Trading Session (9:30 a.m. Eastern Time to 4:00 p.m. Eastern Time).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on September 17, 2007, the date on which the NYSE Arca submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–89. 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 NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2007–89 and should be submitted on or before October 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18819 Filed 9–24–07; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56454; File No. SR–Phlx–2007–43]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Elimination of Calculation Methodology From Generic Listing Standards

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 June 15, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Phlx. On September 6, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposed rule change as amended on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to amend its existing Rule 803 (Criteria for Listing—Tier I) to eliminate the requirement that indexes underlying certain Trust Shares and Index Fund Shares (collectively, ''ETFs'' or ''Exchange Traded Funds'')[3] are calculated following a specific methodology.

The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *http://www.phlx.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, Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx Rule 803 (Criteria for Listing—Tier I) regarding Phlx's generic listing standards pursuant to Rule 19b–4(e) under the Act (''Rule 19b–4(e)'')[4] for ETFs to eliminate the requirement that an underlying index be calculated following one of five specified methodologies.

The Exchange currently has generic listing standards which permit the listing and trading of various ETFs subject to the procedures contained in Rule 19b–4(e) (without the need to file a rule change for each security). By amending its generic listing standards, the Exchange intends to reduce the time frame for listing ETFs based on indexes that utilize methodologies not currently identified in the generic listing standards and thereby reduce the burdens on issuers and other market participants.

The generic listing standards for ETFs presently provide that their underlying indexes be calculated based on the market capitalization, modified market capitalization, price, equal-dollar, or modified equal-dollar weighting methodology.[5] The proposed rule change would eliminate this standard and, as a result, the Exchange would no longer consider index methodology in its review of an ETF's eligibility for listing and trading pursuant to Rule 19b–4(e).

The Exchange notes that, as the market for Trust Shares and Index Fund Shares in particular and exchange traded funds in general has grown and the relevant product lines have matured, there has been an increase in the number of methodologies used to calculate the underlying indexes. To accommodate this development, the Exchange proposes to eliminate any calculation methodology for the underlying index from generic listing standards, as has been done by other exchanges, including the American Stock Exchange LLC (''Amex'').[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* definitions of Trust Shares and Index Fund Shares in Phlx Rules 803(i) and 803(l), respectively.

[4] 17 CFR 240.19b–4(e).

[5] *See* Phlx Rule 803(i)(11)(d) and (l)(6)(D) regarding Trust Shares and Index Fund Shares, respectively.

[6] *See* Securities Exchange Act Release No. 55544 (March 27, 2007), 72 FR 15923 (April 3, 2007) (SR–Amex–2007–07) (order approving the elimination from the Amex's generic listing standards for portfolio depositary receipts of the requirement that

The Exchange believes that the proposed elimination of any index methodology from its generic listing standards for ETFs would potentially reduce the time frame for bringing products based on indexes with nontraditional weighting techniques to the market, thereby reducing the burdens on issuers and other market participants and promoting competition. The Exchange notes that the indexes underlying ETFs would continue to be subject to the other requirements of the generic listing standards pursuant to Rule 19b–4(e). For example, the generic listing standards for Trust Shares will continue to require, without limitation: that the most heavily weighted component stock of an index not exceed 25% of the weight of the index where the index is comprised solely of Non-U.S. Component Stocks or of both U.S. Component Stocks and Non-U.S. Component Stocks (''Combination Stocks'') or 30% where the index is comprised solely of U.S. Component Stocks;[7] that the five most heavily weighted component stocks of an index not exceed 60% of the weight of the index where the index is comprised solely of Non-U.S. Component Stocks or of Combination Stocks or 65% of the weight of the index where the index is comprised solely of U.S. Component Stocks; and that an index include a minimum of 20 component stocks where the index is comprised solely of Non-U.S. Component Stocks or of Combination Stocks or 13 component stocks where the index is comprised solely of U.S. Component Stocks.[8] The generic listing standards for Index Fund Shares will continue to have similar requirements that are dependent on whether the index is comprised of U.S. Component Stocks, Non-U.S. Component Stocks, or Combination Stocks.[9] The Exchange believes that such requirements will ensure that the indexes are sufficiently diversified, and that their components are sufficiently liquid to underlie the ETFs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[10] in general, and with section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2007–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2007–43. 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–43 and should be submitted on or before October 16, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[12] and, in particular, the requirements of section 6 of the Act.[13] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As the market for ETFs has grown, the variety of weighting and calculation methodologies for underlying indexes has also expanded, limiting the applicability of Phlx's current generic ETF listing standards. The Commission believes that the proposed elimination of index methodology from its generic listing standards for ETFs would potentially reduce the time frame for bringing ETFs based on indexes with nontraditional weighting techniques to

an eligible index be calculated and weighted following a specified methodology).

[7] A U.S. Component Stock is an equity security that is registered under Sections 12(b) or 12(g) of the Act or an American Depository Receipt (ADR) the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act. A Non-U.S. Component Stock is an equity security that is not registered under Sections 12(b) or 12(g) of the Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including real estate investment trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives). *See* Phlx Rules 803(i)(1) and 803(l)(2).

[8] *See* Phlx Rule 803(i)(11)(a) and (b).

[9] *See* Phlx Rule 803(l)(6)(A) and (B).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

the market, thereby reducing the burdens on issuers and other market participants and promoting competition, without compromising investor protection.

The Commission notes that Phlx's generic listing standards for Trust Shares and Index Fund Shares based on domestic indexes or portfolios will continue to require, without limitation, that the most heavily weighted component stock of an index not exceed 30% of the weight of the index, the five most heavily weighted component stocks of an index not exceed 65% of the weight of the index, and that an index include a minimum of 13 component stocks.[15] Therefore, the Commission believes that indexes underlying ETFs will continue to be sufficiently broad-based in scope to minimize potential manipulation.

Acceleration

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that Phlx's proposal is substantially similar to a proposed rule change of another exchange recently approved by the Commission.[16] Phlx's proposal does not raise any novel regulatory issues and, therefore, the Commission believes that good cause exists for approving the filing in an expedited basis.

Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[17] to approve the proposed rule change as amended on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR–Phlx–2007–43), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18821 Filed 9–24–07; 8:45 am]

BILLING CODE 8010–01–P

[15] *See* Phlx Rules 803(i)(11)(a) and 803(l)(6)(A).In addition, on July 11, 2007, the Commission approved generic listing standards for ETFs based on international or global indexes. *See* Securities Exchange Act Release No. 56049 (July 11, 2007), 72 FR 39121 (July 17, 2007) (SR–Phlx–2007–20). These newly adopted generic listing standards require, without limitation, that the most heavily weighted component stock of an index not exceed 25% of the weight of the index, the five most heavily weighted component stocks of an index not exceed 60% of the weight of the index, and that an index include a minimum of 20 component stocks.

[16] *See supra* note 6.

[17] 15 U.S.C. 78s(b)(2).

[18] *Id.*

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11042]

Iowa Disaster #IA–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of IOWA (FEMA–1727–DR), dated 09/14/2007.

Incident: Severe Storms and Flooding.

Incident Period: 08/17/2007 through 09/05/2007.

EFFECTIVE DATE: 09/14/2007.

Physical Loan Application Deadline Date: 11/13/2007.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/14/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Allamakee, Appanoose, Boone, Calhoun, Cherokee, Davis, Humboldt, Mahaska, Palo Alto, Pocahontas, Van Buren, Wapello. Wayne, Webster.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000

The number assigned to this disaster for physical damage is 11042.

(Catalog of Federal Domestic Assistance Number 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7–18887 Filed 9–24–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5941]

Department of State Performance Review Board Members (at Large Board)

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following individuals to the Department of State Performance Review Board (At-Large):

Richard L. Greene, Deputy Director, Office of the Director of U.S. Foreign Assistance, Department of State;

Glen H. Johnson, Office Director, Office of Verification Operations, Bureau of Verification, Compliance and Implementation, Department of State;

Catherine J. Russell, Associate Director for Management, Office of the Executive Director, Foreign Service Institute, Department of State;

James H. Thessin, Deputy Legal Adviser, Office of the Legal Adviser, Department of State;

Linda Thomas-Greenfield, Principal Deputy Assistant Secretary, Bureau of African Affairs, Department of State; (Outside Member).

Dated: September 16, 2007.

Heather M. Hodges,

Acting Director General of the Foreign Service and Director of Human Resources, Department of State.

[FR Doc. E7–18845 Filed 9–24–07; 8:45 am]

BILLING CODE 4710–15–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 07–05).

TIME AND DATE: 9 a.m. CDT, September 27, 2007, Huntsville Marriott, 5 Tranquility Base, Huntsville, Alabama 35805.

Agenda

Old Business

Approval of minutes of August 1, 2007, Board Meeting.

New Business

1. President's Report.
2. Report of the Finance, Strategy, and Rates Committee:
   A. TVA annual budget for FY 2008.
   B. Asset Retirement Obligations Trust.
   C. Regulatory accounting changes.
   D. Authorization to issue bonds.
   E. Customer issues.
   i. Extension of contract with a directly-served customer.
   ii. New interruptible product—60-Minute Response program.
3. Report of the Operations, Environment, and Safety Committee:
   A. Combined cycle project.
   B. Bellefonte Combined Construction Permit & Operating License Application.
4. Report of the Human Resources Committee:
   A. Winning Performance measures and balanced scorecard.
   B. TVA Contribution to TVA Retirement System.
   C. Award of contract for prescription drug benefits.
5. Report of the Audit and Ethics Committee:
   A. Selection of external auditor.
6. Report of the Community Relations Committee.
7. Report of the Corporate Governance Committee:
   A. Appointment of assistant secretary.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: September 20, 2007.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 07–4736 Filed 9–21–07; 2:28 pm]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection abstracted below will be submitted to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 2, 2007. No comments were received.

DATES: Comments must be submitted on or before October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Kenneth Willis, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–2306; or E-mail: *kenneth.willis@dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title of Collection: Application and Reporting Requirements for Participation in the Maritime Security Program.

OMB Control Number: 2133–0525.

Type of Request: Extension of currently approved information collection.

Affected Public: Vessel operators.

Form Numbers: MA–172.

Abstract: The Maritime Security Act of 2003 provides for the enrollment of qualified vessels in the Maritime Security Program Fleet. Applications and amendments are used to select vessels for the fleet. Periodic reporting is used to monitor adherence of contractors to program parameters.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Annual Estimated Burden Hours: 224 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect, if OMB receives it within 30 days of publication.

(Authority: 49 CFR 1.66)

Dated: September 14, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–18899 Filed 9–24–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference).The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, October 17, 2007, at 2:30 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Wednesday, October 17, 2007 at 2:30 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: September 18, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–18801 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Committee of the Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 7 Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Wednesday, October 17, 2007.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Committee of the Taxpayer Advocacy Panel will be held Wednesday, October 17, 2007 from 2 pm to 3:30 pm Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Miss Spinks can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: September 18, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–18803 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals.

DATES: The meeting will be held Thursday, October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the FederalAdvisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be held Thursday, October 18, 2007 from 12:30 p.m. to 1:30 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Marisa Knispel. Ms. Knispel can be reached at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: September 18, 2007.

John Fay,

Acting Director,Taxpayer Advocacy Panel.

[FR Doc. E7–18804 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Thursday, October 25, 2007 from 1:00 pm Pacific Time to 2:30 pm Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: September 18, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–18806 Filed 9–24–07; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Meetings To Prepare Report to Congress

ADVISORY COMMITTEE: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open meetings to prepare Report to Congress—October 11–12, 2007, and October 22–26, 2007 in Washington, DC.

SUMMARY: Notice is hereby given of meetings of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Chairwoman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate, and report to Congress annually on the U.S.-China economic and security relationship. The mandate specifically charges the Commission to prepare a report to the Congress ''regarding the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China * * * [that] shall include a full analysis, along with conclusions and recommendations for legislative and administrative actions * * *''

Purpose of Meeting: Pursuant to this mandate, the Commission will meet in Washington, DC on October 11–12, and October 22–26, 2007, to consider the second and final rounds of drafts of material for its 2007 End-of-Year Report to Congress that have been prepared for its consideration by the Commission staff, and to make modifications to those drafts that Commission members believe are needed.

Topics To Be Discussed: The Commissioners will be considering draft Report sections addressing the following topics:

- The United States-China trade and economic relationship, including the relationship's current status, significant changes during 2007, the control of China's economy by its government, and the effect of that control on the United States,
- China's Military Modernization,
- China's Energy and Environmental Policies and Activities, including the strategic Impact of these policies and activities on the United States and the world and prospects for addressing the effects of China's energy consumption.

Dates and Times: Thursday, October 11, 2007 (9:30 a.m. to 3 p.m.) and Friday, October 12, 2007 (9:30 a.m. to 4 p.m.), Eastern Daylight Time; and Monday through Friday, October 22 to 26, 2007 (9:30 a.m. to 3:30 p.m.) Eastern Daylight Time.

Place of Meeting: Meetings on October 11, 12, and 24 will be held in Conference Room 333 (3rd floor), meetings held on October 22, 23, 25, and 26 will be held in Conference Room 231 (2nd floor) of The Hall of the States located at 444 North Capitol Street, NW., Washington, DC 20001. Public seating is limited, and will be available on a ''first-come, first-served'' basis. *Advance reservations are not required. All participants must register at the front desk of the lobby.*

Required Accessibility Statement: The entirety of these Commission editorial and drafting meetings will be open to the public. The Commission may recess the public editorial/drafting meetings to address administrative issues in closed session.

FOR FURTHER INFORMATION ABOUT THESE MEETINGS, CONTACT: Kathy Michels, Associate Director, U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington DC 20001; phone 202–624–1409; e-mail *kmichels@uscc.gov*.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: September 19, 2007.

Kathleen J. Michels,

Associate Director, U.S.&-China Economic and Security Review Commission.

[FR Doc. E7–18814 Filed 9–24–07; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0180]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine whether proprietary schools receiving Federal financial assistance from VA and the Department of Education are in compliance with equal opportunity laws.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–2900–0180'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Compliance Report of Proprietary Institutions, VA Form 20–4274.

OMB Control Number: 2900–0180.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 20–4274 is used to determine whether proprietary educational institutions receiving Federal financial assistance comply with applicable civil rights statute and regulations. The collected information is used to identify areas that may indicate, statistically, disparate treatment of minority group members.

Affected Public: Business or other for-profit, Federal Government.

Estimated Annual Burden: 155 hours.

Estimated Average Burden per Respondent: 75 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 124.

Dated: September 17, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18885 Filed 9–24–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0474]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine whether funding fees for VA guaranteed loans were paid.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0474'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Create Payment Request for the VA Funding Fee Payment System (VA FFPS) Computer Generated Funding Fee Receipt, VA Form 26–8986.

OMB Control Number: 2900–0474.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans obtaining a VA-guaranteed home loan must pay a funding fee to VA before the loan can be guaranteed. The only exceptions are loans made to veterans receiving VA compensation for service-connected disabilities, (or veterans whom, but for receipt of retirement pay, would be entitled to receive compensation) and unmarried surviving spouses of veterans who died in active military service or from service-connected disability regardless of whether the spouse has his or her own eligibility.

Affected Public: Individuals or households and Business or other for profit.

Estimated Annual Burden: 14,167 hours.

Estimated Average Burden per Respondent: 2 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 425,000.

Dated: September 17, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18900 Filed 9–24–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0011]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to reinstate a claimant's Government Life Insurance and/or Total Disability Income Provision.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0011 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Application for Reinstatement, VA Form 29–352 (Insurance Lapsed for more than 6 months) and VA Form 29–353 (Non-medical Comparative Health Statement).

OMB Control Number: 2900–0011.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 29–352 and 29–353 are used to apply for reinstatement of insurance and/or Total Disability Income Provision that has lapsed for more than six months. VA uses the information collected to establish the applicant's eligibility for reinstatement.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

Dated: September 17, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18901 Filed 9–24–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0624]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine whether adjustments in rates of benefit payments are necessary.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0624'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Obligation to Report Factors Affecting Entitlement (38 CFR 3.204(a)(1), 38 CFR 3.256(a) and 38 CFR 3.277(b)).

OMB Control Number: 2900–0624.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants who applied for or receives compensation, pension or dependency and indemnity compensation benefits must report changes in their entitlement factors. Individual factors such as income, marital status, the beneficiary's number of dependents, may affect the amount of the benefit that he or she receives or they may affect his or her right to receive the benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 31,017 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 372,209.

Dated: September 17, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18902 Filed 9–24–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
September 25, 2007

Part II

Department of Housing and Urban Development

24 CFR Part 200

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Revision to Response Time for Requesting a Technical Review of a Physical Inspection Report; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–5070–F–02]

RIN 2502–AI43

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Revision to Response Time for Requesting a Technical Review of a Physical Inspection Report

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: HUD's regulations provide for the assessment of the physical condition of HUD-assisted multifamily properties and notification to owners of such assessment. The owners, under certain circumstances, are provided an opportunity to seek a technical review of the physical condition assessment, and HUD may take action in certain cases where the housing is found not to be in compliance with the physical condition standards. Because the current regulations establish different time frames for owners to request a technical review, depending on whether HUD transmits the inspection results via the Internet or by certified mail, HUD published a proposed rule on April 24, 2007, that would improve uniformity in the technical review request process by implementing a standard time frame of 30 calendar days for the submission of a request for a technical review. This final rule takes into consideration the public comment received on the proposed rule and adopts the rule without change.

DATES: *Effective Date:* October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Kenneth Hannon, Director, Business Relationships and Special Initiatives Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6176, Washington, DC 20410–8000; telephone number (202) 708–3944, extension 2599 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—the April 24, 2007, Proposed Rule

For multifamily housing, HUD's regulations in 24 CFR part 200, subpart P, establish certain administrative processes by which HUD notifies owners of HUD's assessment of the physical condition of their multifamily housing. The regulations provide owners, under certain circumstances, with the opportunity to seek a technical review of HUD's physical condition assessment of the multifamily housing. Currently, these regulations provide for two different time frames for owners to request a technical review of HUD's physical inspection assessment, depending on whether HUD transmits the inspection results to the owner via the Internet or by certified mail. Owners receiving their inspection results by certified mail are provided 30 calendar days to submit a request for a technical review, while those owners receiving their results electronically have only 15 calendar days to request a review.

On April 24, 2007, HUD published a proposed rule to establish a uniform time frame for requesting technical review (72 FR 20405). Specifically, HUD proposed to revise 24 CFR 200.857(c)(3) and (d) to include a uniform, 30-calendar-day time frame for the submission of a request for a technical review for physical inspection results that are transmitted to the owner either via the Internet or in hard copy by certified mail. The proposed rule provided that HUD must receive requests for review no later than 30 calendar days from the date that HUD transmits the physical inspection report to the owner (as established by the postmark, if applicable). HUD proposed this rule because a single time frame for requesting a technical review would be more equitable to its clients and simpler for its multifamily field offices to administer.

II. This Final Rule

The public comment period on the April 24, 2007, proposed rule closed on May 24, 2007. HUD received one comment from a trade association that offered support for the rule. The commenter urged HUD to establish uniformity in the technical review request process and provide communication about the time frames, once implemented. HUD appreciates the commenter's support and has adopted the uniform time frames, in the April 24, 2007, proposed rule, without change.

III. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this final rule 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 2502–0369. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this final rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule establishes a uniform time frame for submission of review requests for all owners, regardless of size. The regulatory change is procedural and does not revise or establish new binding requirements on owners. HUD anticipates that a uniform time frame will eliminate confusion and, therefore, expedite the processing of review requests. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandate on state, local, or tribal government or the private sector within the meaning of UMRA.

Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on

state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs, Housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, and Wages.

■ Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

■ 2. Revise § 200.857(c)(3) and (d) introductory text to read as follows:

§ 200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

* * * * *

(c) * * *

(3) If, following review of the physical inspection results and score, the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection, which, if corrected, will result in a significant improvement in the property's overall score (''significant improvement'' is defined in paragraph (d)(4) of this section), the owner may submit a written request for a technical review. The technical review request must be received in writing no later than 30 calendar days (as established by the postmark, if applicable) from the date the physical inspection results are transmitted to the owner by REAC, whether the results and score are transmitted to the owner via the Internet or by hard copy via certified mail.

(d) *Technical review of physical inspection results.* A request for a technical review of physical inspection results must be submitted in writing to REAC and must be received by REAC no later than the 30th calendar day, as applicable under paragraph (c)(3) of this section, following submission of the physical inspection report to the owner, as provided in paragraph (c)(1) of this section.

* * * * *

Dated: September 19, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E7–18892 Filed 9–24–07; 8:45 am]

BILLING CODE 4210–67–P

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Federal Register

Vol. 72, No. 185

Tuesday, September 25, 2007

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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**

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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
54341–54518 25

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
989 ..... 54341, 54343
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

4 54347
208 54347
211 54347
337 54347
347 54347
563 54347
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, 54349

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
200 54516
Proposed Rules:
50 52206
51 52206
55 52206
58 52206
91 52206

25 CFR

900 52790

26 CFR

1 ..... 51703, 52003, 52470, 53684, 54350, 54351
54 54351
602 54351
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

31 CFR

1 54352

32 CFR

199 ..... 53685, 54212, 54353
750 53417
751 53421
756 53424
757 53427

33 CFR

100 ..... 53118, 54355, 54357
117 ..... 50875, 51179, 52006, 52007, 53430, 54359
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

111 54360
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, 54361
60 ..... 51365, 51494
72 51494
75 51494
81 ..... 53432, 53952, 54361
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, 54385, 54390
60 ..... 51392, 51394
62 ..... 50913, 52325
63 ..... 50716, 52958, 52984, 53814, 53838
70 52264
71 52264
72 51394
75 51394
81 ..... 51747, 53743, 54390
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
172 53961
175 53961
177 53961
189 53961
401 53158

Proposed Rules:

10 52841
15 52841

47 CFR

1 54363
54 54214
63 54363
73 ....52827, 53687, 53688
90 51374

Proposed Rules:

73 ....51208, 51575, 52337, 52338

48 CFR

Ch. 1 ....51187, 51310
4 51306
12 51306
52 51306
Ch. 2 51187
202 51187
207 51188
211 52293
212 51189
216 51189
227 51188
234 51189
236 51191
237 ....51192, 51193
245 52293
252 ....51187, 51189, 51194, 52293
639 51568
652 51568
727 53161
742 53161
752 53161

Proposed Rules:

215 51209
252 51209

49 CFR

71 54367
209 51194
213 51194
214 51194
215 51194
216 51194
217 51194
218 51194
219 51194
220 51194
221 51194
222 51194
223 51194
224 51194
225 51194
228 51194
229 51194
230 51194
231 51194
232 51194
233 51194
234 51194
235 51194
236 51194
238 51194
239 51194
240 51194
241 51194
244 51194
571 ....50900, 51908
585 51908
661 53688
1002 51375
1111 51375
1114 51375
1115 51375

Proposed Rules:

171 53744
173 53744
175 53744
229 ....50820, 52536
232 ....50820, 52536
571 54402
238 ....50820, 52536
1540 50916
1544 50916
1560 50916

50 CFR

17 ....51102, 52434, 54377
20 ....53882, 54158
32 51534
600 54219
622 54223
648 ....51699, 53969
660 ....50906, 53165
679 ....50788, 51570, 51716, 51717, 51718, 52299, 52491, 52492, 52493, 52494, 52668, 53169

Proposed Rules:

17 ....50918, 50929, 51766, 51770, 53211, 53749, 54411
216 52339
648 ....53751, 53942
679 53516
697 53978

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 25, 2007

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program—

Dental care for children and other patients; anesthesia and other costs authorization; John Warner National Defense Authorization Act changes; published 9-25-07

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Pennsylvania; correction; published 9-25-07

FEDERAL COMMUNICATIONS COMMISSION

Practice and procedure:

Interim filing procedures; rescission; published 6-27-07

FEDERAL DEPOSIT INSURANCE CORPORATION

Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle; published 9-25-07

FEDERAL RESERVE SYSTEM

Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle; published 9-25-07

GENERAL SERVICES ADMINISTRATION

Federal travel:

Relocation income tax allowance tax tables; published 6-27-07

POSTAL SERVICE

Domestic Mail Manual:

Sharps and other regulated medical waste containers; revised mailing standards; published 9-25-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aquila Technische Entwicklungen GmbH; published 8-21-07

Boeing; published 8-21-07

Diamond Aircraft Industries GmbH; published 8-21-07

Mitsubishi; published 8-21-07

Pacific Aerospace Corporation, Ltd.; published 8-21-07

Pacific Aerospace Corporation, Ltd.; correction; published 9-18-07

TREASURY DEPARTMENT

Comptroller of the Currency

Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle; published 9-25-07

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Corporate estimated tax

Correction; published 9-25-07

Correction; published 9-25-07

Tax-sheltered annuity contracts

Correction; published 9-25-07

Correction; published 9-25-07

TREASURY DEPARTMENT

Privacy Act; implementation; published 9-25-07

TREASURY DEPARTMENT

Thrift Supervision Office

Small insured depository institutions and U.S. branches and agencies of foreign banks; expanded examination cycle; published 9-25-07

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 petitons, 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

Railraod 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 "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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

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