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

WHO: Sponsored by the Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Wednesday, November 14, 2007
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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Rules and Regulations

Federal Register

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Tuesday, November 6, 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.

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29066; Directorate Identifier 2007–NM–147–AD; Amendment 39–15250; AD 2007–23–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been discovered in several cases that clamp bolts of the elevator spring tab mechanism were not installed in the correct orientation. Bolts have been found installed with bolt heads on the lower position and in two cases, some bolts, nuts and washers [hardware] were found to be loose or missing. Detachment of an elevator spring tab mechanism clamp bolt could lead to jamming of the elevator control system and reduced controllability of the aircraft.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 11, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 31, 2007 (72 FR 50288). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been discovered in several cases that clamp bolts of the elevator spring tab mechanism were not installed in the correct orientation. Bolts have been found installed with bolt heads on the lower position and in two cases, some bolts, nuts and washers [hardware] were found to be loose or missing. Detachment of an elevator spring tab mechanism clamp bolt could lead to jamming of the elevator control system and reduced controllability of the aircraft.

The corrective action is a one-time inspection of the left- and right-hand elevator spring tab mechanism hardware for correct installation, and prior to further flight, installing new hardware for any hardware that is incorrectly installed. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect about 150 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $36,000, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under

Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–04 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–15250. Docket No. FAA–2007–29066; Directorate Identifier 2007–NM–147–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; certificated in any category; serial numbers 003 through 611 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been discovered in several cases that clamp bolts of the elevator spring tab mechanism were not installed in the correct orientation. Bolts have been found installed with bolt heads on the lower position and in two cases, some bolts, nuts and washers [hardware] were found to be loose or missing. Detachment of an elevator spring tab mechanism clamp bolt could lead to jamming of the elevator control system and reduced controllability of the aircraft.

The corrective action is a one-time inspection of the left- and right-hand elevator spring tab mechanism hardware for correct installation, and prior to further flight, installing new hardware for any hardware that is incorrectly installed.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 12 months after the effective date of this AD: Carry out a one-time inspection of the left- and right-hand elevator spring tab mechanism hardware for correct installation according to the Accomplishment Instructions of Bombardier Service Bulletin 8–27–106, dated February 7, 2006.

(2) If any hardware is found incorrectly installed during the inspection required by paragraph (f)(1) of this AD, prior to further flight, install new hardware according to the Accomplishment Instructions of Bombardier Service Bulletin 8–27–106, dated February 7, 2006.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7305; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–08, dated June 4, 2007, and Bombardier Service Bulletin 8–27–106, dated February 7, 2006, for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 8–27–106, dated February 7, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on October 27, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21672 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28957 Directorate Identifier 2007–CE–069–AD; Amendment 39–15252; AD 2007–23–06]

RIN 2120–AA64

Airworthiness Directives; CTRM Aviation Sdn. Bhd. (Formerly Eagle Aircraft (Malaysia) Sdn. Bhd.) Model Eagle 150B Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

An operator has reported severe exfoliation corrosion on Wing/Canard Flap Hinges, P/N 5731D01–16 (middle and outboard hinges) on his Eagle 150B. The corrosion has been detected during 100-hour inspection. The aircraft has accumulated more than 1000 flight hours. The corrosion is so severe that one of the Flap Hinges thickness has been reduced by 50%. The corrosion is not easily detected because the Flap Hinge is sandwiched between the Flap Hinge Support Bracket P/N 5731D01–01.

The failure of the hinge bracket may result in disintegration of flap/canard wing thus leading to loss of control, with catastrophic consequences.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2007.

On December 11, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 14, 2007 (72 FR 52519). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

An operator has reported severe exfoliation corrosion on Wing/Canard Flap Hinges, P/N 5731D01–16 (middle and outboard hinges) on his Eagle 150B. The corrosion has been detected during 100-hour inspection. The aircraft has accumulated more than 1000 flight hours. The corrosion is so severe that one of the Flap Hinges thickness has been reduced by 50%. The corrosion is not easily detected because the Flap Hinge is sandwiched between the Flap Hinge Support Bracket P/N 5731D01–01.

The failure of the hinge bracket may result in disintegration of flap/canard wing thus leading to loss of control, with catastrophic consequences.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 6 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the AD to U.S. operators to be $1,440, or $240 per product.

In addition, we estimate that any necessary follow-on actions will take about 4 work-hours and require parts costing $226, for a cost of $546 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–06 CTRM Aviation Sdn. Bhd. (Formerly Eagle Aircraft (Malaysia) Sdn. Bhd.): Amendment 39–15252; Docket No. FAA–2007–28957; Directorate Identifier 2007–CE–069–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD affects Model Eagle 150B airplanes, all serial numbers, that are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

An operator has reported severe exfoliation corrosion on Wing/Canard Flap Hinges, P/N 5731D01–16 (middle and outboard hinges) on his Eagle 150B. The corrosion has been detected during 100-hour inspection. The aircraft has accumulated more than 1000 flight hours. The corrosion is so severe that one of the Flap Hinges thickness has been reduced by 50%. The corrosion is not easily detected because the Flap Hinge is sandwiched between the Flap Hinge Support Bracket P/N 5731D01–01.

The failure of the hinge bracket may result in disintegration of flap/canard wing thus leading to loss of control, with catastrophic consequences.

The MCAI requires you to visually inspect the flap hinges and flap hinge support brackets for any corrosion. You are to take corrective action if you find any corrosion.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within the next 25 hours time-in-service (TIS) after December 11, 2007 (the effective date of this AD), inspect the flap hinges and flap hinge support brackets for any corrosion, following CTRM Aviation Mandatory Service Bulletin SB 1126, dated July 19, 2007.

(2) Before further flight, if you find any corrosion as a result of any inspection required by paragraph (f)(1) of this AD, take corrective action following CTRM Aviation Mandatory Service Bulletin SB 1126, dated July 19, 2007.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No Differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Department of Civil Aviation Malaysia AD No. CAM AD 001–07–2007, dated July 20, 2007; and CTRM Aviation Mandatory Service Bulletin SB 1126, dated July 19, 2007, for related information.

Material Incorporated by Reference

(i) You must use CTRM Aviation Mandatory Service Bulletin SB 1126, dated July 19, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact CTRM Aviation Sdn. Bhd. (formerly known as Eagle Aircraft Sdn. Bhd.), Locked Bag 1028, Pejabat Pos Besar Melaka, 75150 Melaka, Malaysia; telephone: 06 317 1007; fax: 06 317 7023.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on October 29, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21667 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29064; Directorate Identifier 2007–NM–128–AD; Amendment 39–15249; AD 2007–23–03]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

One Fokker 100 (F28 Mark 0100) operator reported that during maintenance in the APU (auxiliary power unit) compartment, a disconnected nut was discovered on one of the shuttle valves in the deployment lines of the engine fire-extinguishing system. An additional check by the operator revealed that on more aircraft in its fleet, the nuts of the shuttle valves were incorrectly tightened. This condition, if not corrected, could result in failure or deteriorated functioning of the engine fire-extinguishing system in case of an engine fire.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 11, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 31, 2007 (72 FR 50274). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> One Fokker 100 (F28 Mark 0100) operator reported that during maintenance in the APU (auxiliary power unit) compartment, a disconnected nut was discovered on one of the shuttle valves in the deployment lines of the engine fire-extinguishing system. An additional check by the operator revealed that on more aircraft in its fleet, the nuts of the shuttle valves were incorrectly tightened. This condition, if not corrected, could result in failure or deteriorated functioning of the engine fire-extinguishing system in case of an engine fire. Since a potentially unsafe condition has been identified that is likely to exist or develop on other aircraft of this type design, this Airworthiness Directive requires a one-time inspection of the nuts and shuttle valves in the deployment lines of the engine fire-extinguishing system in the APU compartment and corrective actions, as necessary.

The one-time inspection is intended to find discrepancies, including incorrectly installed or tightened nuts, and signs of leakage, damage, or corrosion. Corrective actions include tightening or replacing discrepant nuts or shuttle valves, as applicable. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 13 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,040, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–03 Fokker Services B.V.: Amendment 39–15249. Docket No. FAA–2007–29064; Directorate Identifier 2007–NM–128–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0070 and 0100 airplanes, all serial numbers; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 26: Fire protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

> One Fokker 100 (F28 Mark 0100) operator reported that during maintenance in the APU (auxiliary power unit) compartment, a disconnected nut was discovered on one of the shuttle valves in the deployment lines of the engine fire-extinguishing system. An

additional check by the operator revealed that on more aircraft in its fleet, the nuts of the shuttle valves were incorrectly tightened. This condition, if not corrected, could result in failure or deteriorated functioning of the engine fire-extinguishing system in case of an engine fire. Since a potentially unsafe condition has been identified that is likely to exist or develop on other aircraft of this type design, this Airworthiness Directive requires a one-time inspection of the nuts and shuttle valves in the deployment lines of the engine fire-extinguishing system in the APU compartment and corrective actions, as necessary.

The one-time inspection is intended to find discrepancies, including incorrectly installed or tightened nuts, and signs of leakage, damage or corrosion. Corrective actions include tightening or replacing discrepant nuts or shuttle valves, as applicable.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 6 months after the effective date of this AD, inspect the nuts on the affected shuttle valves in accordance with Section 3., ''Accomplishment Instructions,'' of Fokker Service Bulletin SBF100–26–019, dated January 6, 2006.

(2) When discrepancies are found during the inspection as required by paragraph (f)(1) of this AD, before next flight, tighten or replace the affected nuts, or replace the shuttle valves; as applicable; in accordance with Section 3., ''Accomplishment Instructions,'' of Fokker Service Bulletin SBF100–26–019, dated January 6, 2006.

Note 1: Fokker 70/100 Aircraft Maintenance Manual Task 26–21–03–400–814–A also pertains to this subject.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No difference.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Dutch Airworthiness Directive NL–2006–002, dated January 24, 2006, and Fokker Service Bulletin SBF100–26–019, dated January 6, 2006, for related information.

Material Incorporated by Reference

(i) You must use Fokker Service Bulletin SBF100–26–019, dated January 6, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on October 27, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21673 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29171; Directorate Identifier 2007–NM–154–AD; Amendment 39–15251; AD 2007–23–05]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 11, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 11, 2007 (72 FR 51722). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR

(Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 7 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $560, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–05 Saab Aircraft AB: Amendment 39–15251. Docket No. FAA–2007–29171; Directorate Identifier 2007–NM–154–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Saab Model SAAB 2000 airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA (European Aviation Safety Agency) published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the 'unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: The date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 3 months after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the maintenance and inspection instructions in Part 1 of Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006. For all tasks identified in Part 1 of Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006, the initial compliance times start from the effective date of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in Part 1 of Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006.

(2) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Part 2 of Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006.

(3) Except as provided by paragraph (g) of this AD: After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspection, inspection intervals, or CDCCLs may be used.

(4) Where Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006, allows for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0199, dated July 11, 2006, and Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006, for related information.

Material Incorporated by Reference

(i) You must use Saab Fuel Airworthiness Limitations 2000 LKS 009032, dated February 14, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on October 27, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21674 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28925; Directorate Identifier 2007–NM–123–AD; Amendment 39–15248; AD 2007–23–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes, and Model A340–200 and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During ground inspection of an A340–311 aircraft, it has been discovered that 5 fasteners were missing between Frame (FR) 18 and FR19 on longitudinal joint at stringer 28RH (right hand).

Further investigations have revealed that the missing fasteners have not been installed in production due to incorrect production instructions.

If not corrected, this situation could affect the structural integrity of the aircraft in the area of stringer 28 between FR18 and FR19 at longitudinal joint.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 11, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 16, 2007 (72 FR 45970). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During ground inspection of an A340–311 aircraft, it has been discovered that 5 fasteners were missing between Frame (FR) 18 and FR19 on longitudinal joint at stringer 28RH (right hand).

Further investigations have revealed that the missing fasteners have not been installed in production due to incorrect production instructions.

If not corrected, this situation could affect the structural integrity of the aircraft in the area of stringer 28 between FR18 and FR19 at longitudinal joint.

In order to re-establish the structural strength of the aircraft, this Airworthiness Directive (AD) renders mandatory the inspection of the longitudinal joint at stringer 28 RH between FR18 and FR19 [for missing fasteners].

For airplanes on which any fastener is missing, the corrective actions include doing a detailed visual inspection for cracking of the adjacent fastener area from the outside, without removing the fasteners; and if no crack is found, doing a rotating probe inspection for cracks of the adjacent fastener holes after removing the fasteners, and replacing any missing fastener. The corrective actions also include contacting Airbus for repair instructions and repair if fasteners are not at nominal diameter or if any crack is found. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 9 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,880, or $320 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–02 Airbus: Amendment 39–15248. Docket No. FAA–2007–28925; Directorate Identifier 2007–NM–123–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–200 and –300 series airplanes and Model A340–200 and –300 series airplanes; certificated in any category; all manufacturer's serial numbers (MSN) up to MSN 0402 included, except MSN 051.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

During ground inspection of an A340–311 aircraft, it has been discovered that 5 fasteners were missing between Frame (FR) 18 and FR19 on longitudinal joint at stringer 28RH (right hand).

Further investigations have revealed that the missing fasteners have not been installed in production due to incorrect production instructions.

If not corrected, this situation could affect the structural integrity of the aircraft in the area of stringer 28 between FR18 and FR19 at longitudinal joint.

In order to re-establish the structural strength of the aircraft, this Airworthiness Directive (AD) renders mandatory the inspection of the longitudinal joint at stringer 28 RH between FR18 and FR19 [for missing fasteners].

For airplanes on which any fastener is missing, the corrective actions include doing a detailed visual inspection for cracking of the adjacent fastener area from the outside, without removing the fasteners; and if no crack is found, doing a rotating probe inspection for cracks of the adjacent fastener holes after removing the fasteners, and replacing any missing fastener. The corrective actions also include contacting Airbus for repair instructions and repair if fasteners are not at nominal diameter or if any crack is found.

Actions and Compliance

(f) Before the accumulation of 14,000 flight cycles from the first flight of the aircraft, or within 1,500 flight cycles following the effective date of this AD, whichever occurs later, unless already done, do the following actions: Perform a detailed visual inspection of the longitudinal joint at stringer 28 RH between FR18 and FR19 for missing fasteners, and do all applicable corrective actions before further flight, in accordance with the instructions defined in Airbus Service Bulletin A330–53–3170 or A340–53–4175, both dated March 27, 2007.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0125, dated May 4, 2007, and Airbus Service Bulletins A330–53–3170 and A340–53–4175, both dated March 27, 2007, for related information.

Material Incorporated by Reference

(i) You must use the service information specified in Table 1 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Date
A330–53–3170, excluding Appendix 01	March 27, 2007.
A340–53–4175, excluding Appendix 01	March 27, 2007.

Issued in Renton, Washington, on October 27, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21686 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28882; Directorate Identifier 2007–NM–035–AD; Amendment 39–15247; AD 2007–23–01]

RIN 2120–AA64

Airworthiness Directives; Goodrich Evacuation Systems Approved Under Technical Standard Order (TSO) TSO–C69b and Installed on Airbus Model A330–200 and –300 Series Airplanes, Model A340–200 and –300 Series Airplanes, and Model A340–541 and –642 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to Goodrich evacuation systems approved under TSO–C69b and installed on certain Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and –642 airplanes. That AD currently requires inspecting to determine the part number of the pressure relief valves on the affected Goodrich evacuation systems, and corrective action if necessary. For certain airplanes, this new AD requires an additional inspection to determine the part number of the pressure relief valves, and corrective action if necessary. This AD results from a report indicating that, during maintenance testing, the pressure relief valves on the affected Goodrich evacuation systems did not seal when activated, which caused the pressure in the escape slide/raft to drop below the minimum allowable raft mode pressure. We are issuing this AD

to prevent loss of pressure in the escape slides/rafts after an emergency evacuation, which could result in inadequate buoyancy to support the raft's passenger capacity during ditching, and increase the chance for injury to raft passengers.

DATES: This AD becomes effective December 11, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 11, 2007.

On July 17, 2006 (71 FR 33606, June 12, 2006), the Director of the Federal Register approved the incorporation by reference of Goodrich Service Bulletin 25–355, dated July 25, 2005.

ADDRESSES: For service information identified in this AD, contact Goodrich, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tracy Ton, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5352; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–12–08, amendment 39–14633 (71 FR 33606, June 12, 2006). The existing AD applies to Goodrich evacuation systems approved under Technical Standard Order (TSO) TSO–C69b and installed on certain Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and –642 airplanes. That NPRM was published in the **Federal Register** on August 6, 2007 (72 FR 43576). That NPRM proposed to continue to require inspecting to determine the part number of the pressure relief valves on the affected Goodrich evacuation systems, and corrective action if necessary. For certain airplanes, that NPRM also proposed to require an additional inspection to determine the part number of the pressure relief valves, and corrective action if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 689 airplanes of the affected design in the worldwide fleet. This AD affects about 27 airplanes of U.S. registry.

The actions that are required by AD 2006–12–08 and retained in this AD take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the currently required actions is $2,160, or $80 per airplane.

All airplanes affected by the new required action are currently operated by non-U.S. operators under foreign registry. If an affected airplane is imported and placed on the U.S. Register in the future, the new actions will take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is $80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14633 (71 FR 33606, June 12, 2006) and by adding the following new airworthiness directive (AD):

2007–23–01 Goodrich (Formerly BF Goodrich): Amendment 39–15247. Docket No. FAA–2007–28882; Directorate Identifier 2007–NM–035–AD.

Effective Date

(a) This AD becomes effective December 11, 2007.

Affected ADs

(b) This AD supersedes AD 2006–12–08.

Applicability

(c) This AD applies to Goodrich evacuation systems approved under Technical Standard Order (TSO) TSO–C69b, as installed on Airbus Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, –213, –311, –312, and –313 airplanes; and Model A340–541 and –642 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report indicating that, during maintenance testing, the pressure relief valves on the affected Goodrich evacuation systems did not seal when activated, which caused the pressure in the escape slide/raft to drop below the minimum allowable raft mode pressure. We are issuing this AD to prevent loss of pressure in the escape slides/rafts after an emergency evacuation, which could result in inadequate buoyancy to support the raft's passenger capacity during ditching, and increase the chance for injury to raft passengers.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of Requirements of AD 2006–12–08

Inspection for Certain Part Number (P/N)

(f) For all airplanes: Within 36 months after July 17, 2006 (the effective date of AD 2006–12–08): Perform an inspection to determine the part number of the pressure relief valve on the Goodrich evacuation systems in accordance with the Accomplishment Instructions of Goodrich Service Bulletin 25–355, dated July 25, 2005; or Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006. After the effective date of this AD, only Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006, may be used.

(1) If any pressure relief valve having P/N 4A3791–3 is installed, before further flight, replace the valve with a new or serviceable valve having P/N 4A3641–1 and mark the girt adjacent to the placard, in accordance with the Accomplishment Instructions of the service bulletin.

(2) If any pressure release valve having P/N 4A3641–1 is installed, before further flight, mark the girt adjacent to the placard in accordance with the Accomplishment Instructions of the service bulletin.

Part Installation for Airplanes Identified in Original Issue of the Service Bulletin

(g) As of July 17, 2006, no person may install a pressure relief valve having P/N 4A3791–3, on any airplane equipped with Goodrich evacuation systems identified in Goodrich Service Bulletin 25–355, dated July 25, 2005.

New Requirements of This AD

Inspection for Certain Other P/N

(h) For Model A340–541 airplanes: Within 36 months after the effective date of this AD, perform an inspection to determine the part number of the pressure relief valve on the Goodrich evacuation systems in accordance with the Accomplishment Instructions of Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006.

(1) If any pressure relief valve having P/N 4A3791–6 is installed, before further flight, replace the valve with a new or serviceable valve having P/N 4A3641–26 and mark the girt adjacent to the placard, in accordance with the Accomplishment Instructions of the service bulletin.

(2) If any pressure release valve having P/N 4A3641–26 is installed, before further flight, mark the girt adjacent to the placard in accordance with the Accomplishment Instructions of the service bulletin.

Parts Installation for All Airplanes

(i) As of the effective date of this AD, no person may install a pressure relief valve having P/N 4A3791–3, on any airplane equipped with Goodrich evacuation systems identified in Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006.

(j) As of the effective date of this AD, no person may install a pressure relief valve having P/N 4A3791–6, on any airplane equipped with Goodrich evacuation systems identified in Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) AMOCs approved previously in accordance with AD 2006–12–08 are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(l) You must use Goodrich Service Bulletin 25–355, dated July 25, 2005; or Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Goodrich Service Bulletin 25–355, Revision 1, dated July 24, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On July 17, 2006 (71 FR 33606, June 12, 2006), the Director of the Federal Register approved the incorporation by reference of Goodrich Service Bulletin 25–355, dated July 25, 2005.

(3) Contact Goodrich, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on October 27, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21685 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs; Ractopamine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health. The supplemental NADA provides for an increased level of monensin in three-way combination Type C medicated feeds containing ractopamine, monensin, and tylosin for cattle fed in confinement for slaughter and a revision to bacterial pathogen nomenclature.

DATES: This rule is effective November 6, 2007.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: *daniel.benz@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to NADA 141–224 that provides for use of OPTAFLEXX (ractopamine hydrochloride), RUMENSIN (monensin USP), and TYLAN (tylosin phosphate) Type A medicated articles to make dry and liquid three-way combination medicated feeds for cattle fed in confinement for slaughter. The supplemental NADA provides for an increased level of monensin in combination Type C medicated feeds and a revision to bacterial pathogen nomenclature. The supplemental NADA is approved as of October 12, 2007, and the regulations in 21 CFR 558.500 are amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. In § 558.500, in the table in paragraph (e)(2), revise paragraphs (e)(2)(iv) and (e)(2)(ix) to read as follows:

§ 558.500 Ractopamine.

* * * * *

(e) * * *

(2) * * *

Ractopamine in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	* *	* *	*	*
(iv) 8.2 to 24.6	Monensin 10 to 40 to provide 0.14 to 0.42 mg monensin/lb of body weight, depending on severity of coccidiosis challenge, up to 480 mg/head/day, plus tylosin 8 to 10	Cattle fed in confinement for slaughter: As in paragraph (e)(2)(i) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium (Actinomyces) pyogenes*.	As in paragraph (e)(2)(i) of this section; see §§ 558.355(d) and 558.625(c) of this chapter.	000986
*	* *	* *	*	*
(ix) 9.8 to 24.6	Monensin 10 to 40 to provide 0.14 to 0.42 mg monensin/lb of body weight, depending on severity of coccidiosis challenge, up to 480 mg/head/day, plus tylosin 8 to 10	Cattle fed in confinement for slaughter: As in paragraph (e)(2)(vi) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium (Actinomyces) pyogenes*.	As in paragraph (e)(2)(vi) of this section; see §§ 558.355(d) and 558.625(c) of this chapter.	000986
*	* *	* *	*	*

Dated: October 26, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–21816 Filed 11–5–07; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0622; FRL–8490–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Revised Denver PM_{10} Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the State of Colorado. On September 25, 2006, the Governor's designee submitted a revised plan for particulate matter with an aerodynamic diameter, less than or equal to 10 microns (PM10) for the Denver metropolitan area for the PM10 National Ambient Air Quality Standard (NAAQS). This revised maintenance plan addresses maintenance of the PM10 standard for a second ten-year period beyond redesignation, extends the horizon years, and contains revised transportation conformity budgets. EPA is approving the removal of Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'' from Denver's revised PM10 maintenance plan. In addition, EPA is approving a transportation budget trading protocol for estimating the PM10 and nitrogen oxides (NOx) for each conformity determination. This action is being taken under section 110 of the Clean Air Act.

DATES: This direct final rule is effective on January 7, 2008 without further notice, unless EPA receives adverse comment by December 6, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R08–

OAR–2007–0622, by one of the following methods:

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

• E-mail: *videtich.callie@epa.gov* and *fiedler.kerri@epa.gov.*

• Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT**, if you are faxing comments).

• Mail: Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• Hand Delivery: Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2007–XXXX. EPA's policy is that all comments received will be included in the public docket without change and may be made available 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to Section I, General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone (303) 312–6493, and e-mail at: *fiedler.kerri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean National Ambient Air Quality Standard.

(iv) The initials *SIP* mean or refer to State Implementation Plan.

(v) The word *State* means the State of Colorado, unless the context indicates otherwise.

(vi) PM10 means particulate matter with an aerodynamic diameter less than 10 microns.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting Confidential Business Information.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM mailed to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically, within the disk or CD–ROM, the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow it to be reproduced.

f. Provide specific examples to illustrate your concerns and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What is the purpose of this action?

In this action, we are approving the revised maintenance plan for the Denver PM10 attainment/maintenance area that is designed to keep the area in attainment for PM10 for a second ten-year period beyond the original redesignation. EPA is approving the removal of Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'' from Denver's revised PM10 maintenance plan. In addition, we are approving revised transportation conformity motor vehicle emissions budgets (MVEBs) and MVEB trading protocol.

We approved the original PM10 redesignation to attainment and maintenance plan for the Denver area on September 16, 2002, (67 FR 58335). In this revised maintenance plan, the State has updated the mobile source PM10 emissions with MOBILE6.2; updated the transportation projections and stationary source inventories; revised the MVEBs; applied a selected amount of the available safety margin to the transportation conformity MVEBs; established an MVEB trading protocol; and extended the horizon year to 2022. Colorado is also removing Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'' from Denver's revised PM10 maintenance plan. We have determined that these changes are approvable as described below.

III. What is the State's process to submit these materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a State Implementation Plan (SIP). The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the revised Denver PM10 maintenance plan and Regulation No. 11 on December 15, 2005. The AQCC adopted the revised PM10 maintenance plan and removal of Regulation No. 11 from Denver's revised PM10 maintenance plan directly after the hearing. This SIP revision became State effective on March 2, 2006, and was submitted by the Governor's designee to us on September 25, 2006.

We have evaluated the revised maintenance plan and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V, and determined that the submittal was administratively and technically complete. Our completeness determination was sent on February 21, 2007, through a letter from Robert E. Roberts, Regional Administrator, to Governor Bill Ritter.

IV. EPA's Evaluation of Denver's Revised PM10 Maintenance Plan

EPA has reviewed the State's revised PM10 maintenance plan for the Denver attainment/maintenance area and finds approval is warranted. The following are the key aspects of these revisions along with our evaluation of each:

A. The State has revised the Denver PM10 maintenance plan to include air quality data that show continuous attainment of the PM10 NAAQS.

As described in 40 CFR 50.6, the level of the national primary and secondary 24-hour ambient air quality standards for particulate matter is 150 micrograms per cubic meter ($\mu g/m^3$), 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$, as determined in accordance with 40 CFR part 50, Appendix K, is equal to or less than one (1). The regulations in 40 CFR 50.6 continue by stating that the levels of PM10 in the ambient air shall be measured by a reference method, based on appendix J, and designated in accordance with part 53 of this chapter, or an equivalent method.

The original Denver PM10 maintenance plan, approved by EPA on September 16, 2002, relied on ambient air quality data from 1999 through 2001. This revised Denver PM10 maintenance plan submitted September 25, 2006, relies on ambient air quality data from 2000 through 2004. Further, we have reviewed ambient air quality data from 2005 to 2006 and the Denver area shows continuous attainment of the PM10 NAAQS based on the most recent data archived in our Aerometric Information and Retrieval System (AIRS).

B. Using the MOBILE6.2 emission factor model, the State updated the attainment year, projected years and the maintenance year emission inventories. The State updated the attainment year (2001), projected years (2009, 2010, 2015, 2020) and the maintenance year (2022) emission inventories for Denver's revised PM10 maintenance plan.

Denver's revised PM10 maintenance plan submitted on September 25, 2006, included comprehensive inventories of PM10 emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. More detailed descriptions of the 2001 attainment year inventory; a new estimated 2009 inventory; updated 2010, 2015, and 2020 projected inventories; and the 2022 maintenance year projected inventory are documented in the revised maintenance plan in section B, ''Emission Inventories'' and in the State's Technical Support Document (TSD). The State's submittal contains emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures for primary and secondary (NOx and SO2) mobile sources and totals emissions from the 2001 attainment year and the projected years are provided in Table IV–1 below.

TABLE IV–1.—SUMMARY OF PM10 EMISSIONS IN TONS PER DAY FOR DENVER

	2001	2009	2010	2015	2020	2022
Primary PM10 Mobile Sources	33.1	41.7	42.4	46.6	50.7	52.1
Total Primary PM10	62.3	92	93.3	99.4	105.3	107.5
NOx Mobile Sources	131.9	77.9	73.4	50.0	38.9	37.6
Total NOx	255.1	280.6	276.4	252.8	244.1	244.4
Mobile Source SO2	4.9	0.8	0.5	0.6	0.7	0.7
Total SO2	101.3	181.8	181.7	182.4	183.5	184.9

The State's approach follows EPA guidance on projected emissions and it is acceptable.[1] Further information on these projected emissions may also be found in the State's TSD. The State estimated the emissions from vehicles using EPA's MOBILE6.2 model and the road dust emission factors derived from a Denver area road dust study conducted in 1989. These road dust factors were used to estimate emissions in the previous maintenance plan and original redesignation request. The MOBILE6.2 modeling information is contained in the State's TSD. Much of the modeling data, input-output files, fleet makeup, MOBILE6.2 input parameters, etc. is on a compact disc (CD), included with the docket for this action, and available from either EPA or the State. Other revisions to the mobile sources categories were due to revised vehicle miles traveled (VMT) estimates that were provided to the State from the Denver Regional Council of Governments (DRCOG), which is the metropolitan planning organization (MPO) for the Denver area. The revised VMT estimates were extracted from DRCOG's 2030 Regional Transportation Plan of January, 2005. In summary, the revised maintenance plan and State TSD contains detailed emission inventory information, that were prepared in accordance with EPA guidance, and are acceptable to EPA.

C. The State revised the maintenance demonstration used in the original maintenance plan. The original Denver PM10 redesignation maintenance plan was approved by EPA on September 16, 2002. The State has revised and updated the maintenance plan for a second ten-year period beyond redesignation.

The September 25, 2006 revised maintenance plan updated mobile source PM10 emissions with MOBILE6.2, assuming removal of Regulation No. 11, the vehicle I/M program, and used the most recent planning assumptions for the Denver metropolitan area from DRCOG's 2030 Regional Transportation Plan (RTP). The modeled domain-wide VMT estimate is presented in Chapter 4, Section B.1 of Denver's revised PM10 maintenance plan and Table IV–2 below.

TABLE IV–2.—ESTIMATED DAILY VMT

Year	2001	2005	2015	2020	2030
	49,783,121	53,208,574	65,722,110	71,484,844	82,081,684

Chapter 2, Section D, of Denver's revised PM10 maintenance plan contains a discussion of the State's assessment of stationary source emissions. Stationary source inventories were updated including new sources permitted since the previously approved maintenance plan. The State estimates emissions for both major sources of primary PM10 and source of secondary NOx and SO2 emissions. We find the State's overall analysis of stationary sources of emissions acceptable.

For the non-road and area source emissions, the State relied upon updated demographic information from DRCOG. Several of the non-road and area source emissions are dependent on demographic data as a surrogate emission factor. DRCOG demographics are presented below from section Chapter 4, Section 1, Table 4–1 of Denver's revised PM10 maintenance plan, and a further discussion is presented in the State's TSD.

TABLE IV–3.—DEMOGRAPHICS

Year	2001	2005	2015	2020	2030
Population	2,034,861	2,146,319	2,432,326	2,612,345	2,972,384
Households	812,273	868,183	994,133	1,074,706	1,235,853
Employment	1,171,970	1,122,934	1,434,530	1,533,233	1,730,639

Based on the data provided in the submitted material, we have concluded that the revised maintenance demonstration is approvable.

D. Monitoring Network and Verification of Continued Attainment

Continued attainment of the PM10 NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in Section E, ''Monitoring Network/ Verification of Continued Attainment'' of the revised Denver PM10 maintenance plan. In this section, the State commits to continue operating the PM10 monitors in the Denver area, and to annually review the monitoring networks and make changes as appropriate.

Also, in Section E, the State commits to track PM10 mobile source parameters and new and modified stationary source permits. Since regular revisions to the transportation improvement programs are prepared every two years, and must go through a transportation conformity finding, the State will use this process to periodically review the VMT estimate and mobile source emissions projections used in the revised maintenance plan. This regional transportation process is conducted by DRCOG in coordination with the Regional Air Quality Council (RAQC), the State's Air Pollution Control Division (APCD), the AQCC, the Federal Highway Administration and EPA.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that our final rulemaking approval renders the State's commitments federally enforceable. These commitments are also the same as those we approved in the original and the previously revised maintenance plan.

E. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along

[1] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Policy Memo: J. Calcagni to Div. Air Directors, September 4, 1992.

with a schedule for the development and implementation of such measures.

As stated in Section F of the revised Denver PM10 maintenance plan, the contingency measures will be triggered by a violation of the PM10 NAAQS. (However, the maintenance plan notes that an exceedance of the PM10 NAAQS may initiate a voluntary, local process by the RAQC and APCD to identify and evaluate potential contingency measures.)

The RAQC, in coordination with the APCD and AQCC, will initiate a subcommittee process to begin evaluating potential contingency measures no more than 60 days after notification by the APCD that a violation of the PM10 NAAQS has occurred. The subcommittee will present recommendations within 120 days of notification and recommended contingency measures will be presented to the AQCC within 180 days of notification. The AQCC will then hold a public hearing to consider the recommended contingency measures, along with any other contingency measures that the AQCC believes may be appropriate to effectively address the violation of the PM10 NAAQS. The necessary contingency measures will be adopted and implemented within one (1) year after the violation occurs.

The potential contingency measures that are identified in section F.1 of Denver's revised PM10 maintenance plan include: (1) Reinstatement of the enhanced I/M program in effect before January 10, 2000; (2) required compliance with Regulation 12 concerning the diesel inspection/maintenance program; (3) compliance with Regulation 13 concerning the oxygenated gasoline program; (4) permitting terms and limits that were included in stationary permits previously incorporated into the state implementation plan at 40 CFR 52.320(82); 62 FR 18716 (April 17, 1997). In addition, the State lists potential contingency measures that would be evaluated for efficacy and suitability. These measures include, among others, increased street sweeping requirements, road paving requirements, wood burning restrictions, and retrofit programs for diesel engines.

Based on the above, we find that the contingency measures provided in Denver's revised PM10 maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA. We note the contingency measures and methodology to implement them are the same as those we approved in the original and previously revised maintenance plan.

F. Subsequent Maintenance Plan Revisions

The previously approved maintenance plan addressed the period 1995 through 2015 and demonstrated, in accordance with section 175A(a) of the CAA, that the PM10 standard will be maintained for the initial ten-year period (through 2012). In accordance with section 175A(b), Colorado has submitted a revised maintenance plan within eight years after our approval of the original redesignation. The purpose of this revised maintenance plan is to provide for maintenance of the PM10 standard for the additional ten years (through 2022) following the first ten-year period.

Based on our review of the components of the revised Denver PM10 maintenance plan, as discussed in items IV(A) through IV(F) above, we have concluded that the State has met the necessary requirements for us to fully approve the revised Denver PM10 maintenance plan. It is important to note that neither the maintenance plan nor the control measures relied upon in this maintenance plan will cease after the final maintenance year 2022. The maintenance plan and control measures relied upon in the maintenance plan will continue to be a part of Colorado's SIP, unless we approve their removal. The maintenance plan will remain in effect until it is revised and we approve the revision.

V. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the Long Range Transportation Plan and the Transportation Improvement Program (TIP) are consistent with the emissions budgets in the SIP (40 CFR 93.118 and 93.124). The emissions budgets are defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the non-attainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above. With respect to maintenance plans, our conformity regulation requires that motor vehicle emission budgets (MVEBs) must be established for the last year of the maintenance plan and may be established for any other years deemed appropriate (40 CFR 93.118).

For transportation plan analysis years, after the last year of the maintenance plan, a conformity determination must show that emissions are less than or equal to the maintenance plan's MVEBs for the last year of the implementation plan. EPA's conformity regulation (40 CFR 93.124) also allows the implementation plan to quantify explicitly the amount by which motor vehicle emissions could be higher while still demonstrating compliance with the maintenance requirement. The implementation plan can then allocate some or all of this additional safety margin to the emissions budgets for transportation conformity purposes.

A. Denver MVEBs

Section D of the revised Denver PM10 maintenance plan describes the applicable transportation conformity requirements and updated MVEBs for the revised maintenance plan. In addition to establishing MVEBs, the State establishes an emission budget trading protocol for trading between emissions budgets for primary PM10 and the PM10 precursor, NOx. Through this revised maintenance plan, the State has established a MVEB for 2015 through 2021 and 2022 and beyond. Specifically, the PM10 MVEBs are defined as 54 tons per day (TPD) of PM10 and 70 TPD of NOx for 2015, and 55 TPD of PM10 and 56 TPD of NOx for 2022. The trading protocol will be explained more fully at a later point in this notice.

Under our conformity rules, an MVEB is established for a given year, not for a range of years. This is because the MVEB reflects the inventory value for motor vehicle emissions in a given year, plus, potentially, any safety margin in that year. (We explain the concept of safety margin more fully below.) It is not possible to specify the same MVEB for a range of years absent specific analysis supporting the derivation of that budget for each year in the range. As a practical matter, this is not usually important because our conformity rules also say that an MVEB for a particular year applies for conformity analyses of emissions in that year and all subsequent years before the next budget year. See 40 CFR 93.118(b)(1)(ii), ''Emissions in years for which no motor vehicle emissions budget(s) are specifically established must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year.'' Therefore, the ''2015 through 2021'' and the ''2022 and beyond'' budgets were derived from the 2015 and 2022 inventory values, respectively, for on-road vehicle emissions and available safety margin.

Thus, we will refer to these as the 2015 and 2022 budgets in the remainder of this action.

In addition, it is noted that the State had previously established MVEBs for 2006 for PM10 of 60 TPD, and 119.4 TPD for NOx for year 1998. These budgets will continue to be effective if the State should perform a conformity analysis for years prior to 2015, based on 40 CFR 93.118(b)(1)(ii).

The maintenance plan indicates that SO emissions from mobile sources are an insignificant contributor to secondary particulate formation in the Denver area (much less than 1 μg/m^3). This is evident by Table 4.3–2 Secondary Particulate Concentration Worksheet, found in the Colorado State Implementation Plan for PM10, Revised TSD. Therefore, an emission budget for SO2 is not established.

The maintenance plan establishes regional budgets for the PM10 modeling domain, which for technical modeling reasons, is less than the entire non-attainment area (as seen in the revised Denver PM10 maintenance plan). All of the emission estimates and air quality modeling in the maintenance plan are based on this domain. Future conformity determinations shall also project future mobile source emission for this same domain, unless the geographic coverage of the budget is changed through a future SIP revision.

As shown in the maintenance demonstration earlier in this plan, the 2010, 2015, 2020, and 2022 regional emissions inventories for primary PM10 and PM10 precursors are below the level necessary to demonstrate continued maintenance of the PM10 standard (150 μg/m^3). As a result, EPA's conformity regulation (40 CFR 93.124) allows the implementation plan to quantify explicitly the amount by which motor vehicle emissions could be higher, while still demonstrating compliance with the maintenance requirement. The implementation plan can then allocate some or all of this additional ''safety margin'' to the emissions budget(s) for conformity purposes. The available safety margin in 2022 as shown in Table V–1 below is 4.7 μg/m^3. Expressed in tons per day, this is equivalent to 57.8 TPD of NOx emissions or 4.2 TPD of PM10, based on results and relationships established in the modeling analysis for 2001 as follows:

- Actual PM10 RAM inventory/averaged key receptor RAM PM10 concentration

60.1 TPD PM10/68.0 μg/m^3 PM10 = 0.9 TPD PM10/μg/m^3 PM10

- Actual NOx total inventory/NOx fraction of max. winter PM10 concentration (2001–2005)

255.1 TPD NOx/20.8 μg/m^3 PM10 = 12.3 TPD NOx/μg/m^3 PM10

The actual PM10 RAM inventory is derived by subtracting the Potential to Emit Point Sources from the Total Primary PM10 as seen in Table 4.2 (Primary and Secondary Emissions Inventory) found in the revised Denver PM10 maintenance plan. The averaged key receptor RAM PM10 concentration is estimated by using the RAM modeled concentrations from the 6th highest total concentrations above100 μg/m^3. The actual NOx inventory is found at Table 3.1–2 of the TSD, and the NOx fraction of maximum winter PM10 concentration (2001–2005) is found in Table 4.3–2 of the TSD.

Allocation of all of the available safety margin to NOx results in mobile source emissions budgets of 95.4 TPD NOx and 52.1 TPD PM10. Conversely, allocation of the entire available safety margin to PM10 results in mobile source emissions budgets of 37.6 TPD NOx and 56.3 TPD PM10, as illustrated in the following table:

TABLE V–1.—2022 AVAILABLE NOX OR PM10 SAFETY MARGIN

	NOx	PM10
Maximum Allowable Concentration	149.9 μg/m^3	149.9 μg/m^3
Maintenance Demonstration	145.2 μg/m^3	145.2 μg/m^3
Available ''safety margin'' ((micrograms/meter^3)	4.7 μg/m^3	4.7 μg/m^3
Available ''safety margin'' (tons per day)	57.8 TPD *	4.2 TPD **
2022 Mobile Sources	37.6 TPD	52.1 TPD
2022 Mobile Source Budget with all Safety Margin Applied to NOx or PM10	95.4 TPD	56.3 TPD

* 1 μg/m^3 = 12.3 TPD NOx.
** 1 μg/m^3 = 0.9 TPD PM10.

This maintenance plan allocates the entire safety margin to the motor vehicle emissions budget and allocates a portion of the available safety margin to PM10 and a portion to NOx as shown in Table V–2:

TABLE V–2.—2022 ALLOCATION OF AVAILABLE SAFETY MARGIN AND DEVELOPMENT OF MOBILE SOURCE EMISSIONS BUDGETS

	NOx	PM10
Available ''safety margin''	4.7 μg/m^3	4.7 μg/m^3
Allocate a portion of PM10 ''safety margin''	.....	−3.2 μg/m^3
Remaining Safety Margin available to NOx	1.5 μg/m^3	
Available ''safety margin'' (tons per day)	18.5 TPD *	2.9 TPD **
Allocated Safety Margin (tons per day)	18.4 TPD	2.9 TPD
2022 Mobile Sources	37.6 TPD	52.1 TPD
2022 Mobile Sources Emissions Budgets	56 TPD	55 TPD

* 1 μg/m^3 = 12.3 TPD NOx.
** 1 μg/m^3 = 0.9 TPD PM10.

Therefore, the revised Denver PM10 maintenance plan establishes MVEBs for 2022, the final year of the maintenance plan as seen in Table V–3 below:

TABLE V–3.—2022 MOTOR VEHICLE EMISSIONS BUDGETS

Year	NOx (TPD)	PM10 (TPD)
2022	56	55

The current 2015 motor vehicle emissions budgets were established in the previously approved maintenance plan using MOBILE5 and DRCOG transportation networks and data available at that time. As discussed previously, 2015 is an EPA approved budget year in the previously approved maintenance plan (September 16, 2002). The 2015 budgets will be revised in this maintenance plan, allocating a portion of available safety margin to both PM10 and NOx, and using the same methodology as the 2022 budgets. The analysis for allocating the safety margin is seen in Table V–4.

TABLE V–4.—2015 ALLOCATION OF AVAILABLE SAFETY MARGIN AND DEVELOPMENT OF MOBILE SOURCE EMISSIONS BUDGETS

	NOx	PM10
Maximum Allowable Concentration	149.9 μg/m³	149.9 μg/m³
Maintenance Demonstration	137.5 μg/m³	137.5 μg/m³
Available "safety margin"	12.4 μg/m³	12.4 μg/m³
Allocate a portion of PM10 "Safety Margin"		−8.2 μg/m³
Remaining Safety Margin available to NOx	4.2 μg/m³	
Available "safety margin"	51.7 TPD	7.4 TPD **
Allocated "safety margin"	20.0 TPD	7.4 TPD
2015 Mobile Sources	50.0 TPD *	46.6 TPD
2015 MS Emissions Budget	70.0 TPD	54 TPD

* 1 μg/m³ = 12.3 TPD NOx.
** 1 μg/m³ = 0.9 TPD PM10.

Based on this analysis the revised Denver PM10 maintenance plan establishes MVEBs as seen in Table V–5 below for 2015. Upon the effective date of this approved maintenance plan, the previously approved budgets for 2015 will no longer apply.

TABLE V–5.—2015 MOTOR VEHICLE EMISSIONS BUDGETS

Year	NOx (TPD)	PM10 (TPD)
2015	70	54

VI. EPA's Approval of the Transportation Budget Trading Protocol

This revised maintenance plan establishes these specific MVEBs. However, this plan is establishing a protocol for trading emissions, as allowed under 40 CFR 93.124(b), between the primary PM10 budget and the PM10 precursor NOx. Trading will allow for different pairs of PM10 and NOx budgets to demonstrate conformity while still resulting in the same PM10 concentrations and ensuring continued air quality with respect to PM10.

The technical analysis presented above has shown a relationship between the concentration of PM10 and the emissions of NOx and primary PM10 as follows:

1 μg/m³ PM10 = 12.3 TPD NOx = 0.9 TPD PM10

This relationship can also be expressed as:

1.0 TPD PM10 = 13.6 TPD NOx

In terms of trading emissions the State is indicating that if the PM10 budget is increased by 1 TPD the NOx budget should be reduced 13.6 TPD in order to have no impact on the ambient PM10 concentration. Conversely, if the NOx budget is increased by 13.6 TPD the primary PM10 budget will be reduced by 1 TPD. The State, as requested by EPA, in order to account for uncertainties in modeling and to provide additional assurance of continued maintenance of the PM10 NAAQS has incorporated a 10% safety factor to the PM10 and NOx trading ratio described above. The resulting ratios for use in trading of emissions are detailed in the trading protocol described below.

The MPO is the entity responsible for demonstrating transportation conformity. This revised PM10 maintenance plan authorizes the MPO to follow the steps below in determining the conformity of the long range transportation plan. The trading protocol is as follows:

- Initially, a demonstration of conformity shall be made using the approved PM10 and NOx MVEBs.
- Prior to any emissions trading, the MPO shall consider implementing all reasonably available local control measures to reduce the PM10 or NOx emissions to meet the established budgets. If conformity cannot be demonstrated, the MPO shall express the need for trading through the normal interagency consultation and review process described in Colorado's Air Quality Regulation No. 10: Criteria for Analysis of Conformity, which includes regional, state, and federal air quality and transportation agencies.
- If trading of NOx for PM10 or PM10 for NOx is determined through consultation to be necessary to adjust emission budgets for purposes of demonstrating transportation conformity, it shall be allowed using the emission trading formulas as follows:
  - For any trades necessary to increase a primary PM10 budget, 15.0 TPD of NOx will be taken from the NOx budget to increase the primary PM10 budget by 1.0 TPD, a ratio of 15 to 1.
  - For trades necessary to increase a NOx budget, 1.0 TPD of primary PM10 will be taken from the primary PM10 budget to increase the NOx budget by 12.0 TPD, a ratio of 1 to 12.
- The MPO shall include the following information in the transportation conformity determination:
  - The budget for primary PM10 and NOx for each required year of the conformity demonstration, before trading allowed by this maintenance plan has been employed.
  - The portion of the primary PM10 budget that will be used to supplement the NOx budget, or, in the alternative, the portion of the NOx budget that will

be used to supplement the primary PM10 budget, in tons per day, for each required year of the conformity demonstration.

○ The increase in the NOx budget or primary PM10 budget that results from use of the applicable formula specified above, along with relevant calculations.

○ The resulting primary PM10 and NOx budgets, in tons per year, for each required year of the conformity demonstration, after the trading allowed by this maintenance plan has been employed.

• To demonstrate conformity, the MPO shall then compare projected emissions to the adjusted PM10 and NOx motor vehicle emissions budgets.

Trades in either direction would be made on a case-by-case basis, decided for each plan/TIP conformity determination.

Pursuant to section 40 CFR 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted MVEBs. EPA reviewed the Denver PM10 2022 budget for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the 2022 budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the State on May 3, 2007, and was announced in the **Federal Register** on June 13, 2007 (72 FR 32646). As a result of this adequacy finding, the 2022 MVEB took effect for conformity determinations in the Denver area on June 28, 2007. However, we are not bound by that adequacy determination in acting on the maintenance plan. The 2022 and revised 2015 MVEBs are considered approved upon the effective date of this maintenance plan approval.

VII. EPA's Evaluation of the Regulation No. 11 Revisions

Colorado's Regulation No. 11 is entitled, ''Motor Vehicle Emissions Inspection Program.'' In developing the revised Denver PM10 maintenance plan, the State conducted a comprehensive reevaluation of mobile source control programs with MOBILE6.2 and the latest transportation sets from DRCOG's 2030 Regional Transportation Plan. Based on these results, Colorado's Regulation No. 11 can be removed from the revised Denver PM10 maintenance plan effective December 31, 2007. This revised maintenance plan reflects the removal of Regulation No. 11 in that the mobile source PM10 emissions were calculated without the PM10 emissions reduction benefit of an inspection and maintenance (I/M) program starting January 1, 2008, and continuing through 2022. Even with the elimination of the I/M program from the revised Denver PM10 maintenance plan, beginning on January 1, 2008, the Denver area still meets EPA requirements to demonstrate maintenance of the PM10 standard through 2022.

We note that the removal of the I/M program from Denver's revised PM10 maintenance plan does not mean the I/M program is eliminated. The State relies on the I/M program in Denver's 1-hour ozone maintenance plan and Denver's 8-hour ozone Early Action Compact (EAC). Therefore, the motor vehicle I/M program will remain intact in the Denver-metro area. We have reviewed and are approving the removal of Regulation No. 11 from the revised Denver PM10 maintenance plan.

VIII. Consideration of Section 110(l) of the Clean Air Act

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As stated above, the revised PM10 maintenance plan shows continuous attainment of the PM10 NAAQS since 2001 for Denver. The revised maintenance plan along with the removal of Regulation No. 11 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

IX. Final Action

In this action, EPA is approving the revised Denver PM10 maintenance plan, that was submitted on September 25, 2006; the revised transportation conformity MVEBs for PM10 and PM10 precursor NOx for the years 2015 and 2022 for Denver; and the PM10 and PM10 precursor NOx, MVEB trading protocol and trading ratios. Furthermore, we are approving the removal of Regulation No. 11 (I/M) from the revised Denver PM10 maintenance plan.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective January 7, 2008 without further notice unless the Agency receives adverse comments by December 6, 2007. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and, if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

X. Statutory and Executive Order Reviews

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. 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 (1) 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). This action also does not have Federalism implications, because it does not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

approves a state rule implementing a Federal standard, 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 is not economically significant.

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. 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.*).

The Congressional Review Act, 5 U.S.C. section 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

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 January 7, 2008. 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, PM10, particulate matter, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 22, 2007.

Robert E. Roberts,

Regional Administrator, Region VIII.

■ 40 CFR part 52 is amended to read 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 G—Colorado

■ 2. Section 52.332 is amended by adding paragraph (p) to read as follows:

§ 52.332 Control strategy: Particulate matter.

* * * * *

(p) Revisions to the Colorado State Implementation Plan, PM10 Revised Maintenance Plan for Denver, as adopted by the Colorado Air Quality Control Commission on December 15, 2005, State effective on March 2, 2006, and submitted by the Governor's designee on September 25, 2006. The revised maintenance plan satisfies all applicable requirements of the Clean Air Act.

[FR Doc. E7–21611 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0271; FRL–8491–4]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of 8-Hour Ozone Section 110(a)(1) Maintenance Plans for the Parishes of Beauregard, Grant, and St. Mary

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Louisiana State Implementation Plan (SIP) concerning the 8-hour ozone maintenance plans for the parishes of Beauregard, Grant, and St. Mary. On August 23, 2006, the State of Louisiana submitted separate SIP revisions containing 8-hour ozone maintenance plans for Beauregard and Grant Parishes, and on October 10, 2006, Louisiana submitted an 8-hour ozone maintenance plan for St. Mary Parish. These plans ensure the continued attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. These maintenance plans meet the statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is approving the revisions pursuant to section 110 of the Federal Clean Air Act (CAA).

DATES: This rule is effective on January 7, 2008 without further notice, unless EPA receives relevant adverse comment by December 6, 2007. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2006–0271, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2006–0271. 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.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the *index,* some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Louisiana Department of Environmental Quality, Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, Louisiana 70821.

FOR FURTHER INFORMATION CONTACT: Ellen Belk, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–2164; fax number 214–665–7263; e-mail address *belk.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'' ''us'' or ''our'' is used, we mean the EPA.

Outline

I. Background
II. Analysis of the State's Submittals
III. The State of Louisiana's Request To Relax the Federal Reid Vapor Pressure Standard in Grant Parish
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background

Under section 107 of the 1977 CAA, Louisiana's Beauregard, Grant, and St. Mary Parishes were designated as nonattainment areas because they did not meet the National Ambient Air Quality Standards (NAAQS) for 1-hour ozone (40 CFR 81.319). As required by section 110 of the CAA, the state of Louisiana submitted a SIP to EPA on December 10, 1979. This SIP was approved by EPA on October 29, 1981 (46 FR 53412). Under the 1990 CAA Amendments, the Beauregard, Grant, and St. Mary Parish nonattainment areas continued to be designated nonattainment for the 1-hour ozone NAAQS by operation of law since Louisiana had not yet collected the required three years of data necessary to petition for redesignation to attainment.

On December 12, 1994, Louisiana submitted a request to redesignate Beauregard, Grant, and St. Mary Parishes to attainment for the 1-hour ozone standard. At the same time, the State submitted the required ozone monitoring data and maintenance plan for each parish (each area includes only the one Parish) to ensure the areas would remain in attainment for 1-hour ozone for a period of 10 years. The maintenance plans submitted by Louisiana followed EPA guidance for limited maintenance areas, which provides for 1-hour ozone areas that have design values less than 85% of the applicable standard. In this case, the applicable standard was the 1-hour ozone standard of 0.12 parts per million (ppm). At the time of the redesignation request, the design values for Beauregard, Grant, and St. Mary Parishes were 0.106, 0.071, and 0.092 ppm, respectively. Since each of these values was at or below the 85% threshold of 0.106 ppm, EPA approved Louisiana's requests to redesignate Beauregard, Grant, and St. Mary Parishes to attainment for the 1-hour ozone standard and approved the Parishes' maintenance plans, on August 18, 1995 (60 FR 43020), with an effective date of October 17, 1995.

On April 30, 2004, EPA designated and classified areas for the new 8-hour ozone NAAQS (69 FR 23858), and published the final phase 1 rule for implementation of the 8-hour ozone NAAQS (69 FR 23951). Beauregard, Grant, and St. Mary Parishes were designated as unclassifiable/attainment for the 8-hour ozone standard, effective June 15, 2004. The three attainment areas consequently are required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase I rule. On May 20, 2005, EPA issued guidance providing information regarding how a state might fulfill the maintenance plan obligation established by the Act and the Phase I rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005). This SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 8-hour ozone NAAQS in the Beauregard, Grant, and St. Mary Parish 8-hour ozone unclassifiable/attainment areas.

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (*South Coast Air Quality Management District.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). Petitions for rehearing were filed with the Court, and on June 8, 2007, the Court modified the scope of the vacatur of the Phase I rule. The Court vacated those portions of the Rule that provide for regulation of 8-hour ozone nonattainment areas under Subpart 1 in lieu of Subpart 2 and that allow backsliding with respect to new source review, penalties, milestones, contingency plans, and motor vehicle emission budgets. Consequently, the Court's modified ruling does not alter any requirements under the Phase 1 8-hour ozone implementation rule for maintenance plans.

II. Analysis of the State's Submittals

On August 23, 2006, the State of Louisiana submitted separate SIP revisions containing 8-hour ozone maintenance plans for Beauregard and Grant Parishes, and on October 10, 2006, Louisiana submitted an 8-hour

ozone maintenance plan for St. Mary Parish. (The August 23, 2006 submittal for Grant Parish superseded a previous one dated March 2006, and included substantive changes to the contingency plan section. The August 23, 2006 submittal for Grant Parish was preceded by a proposal in June 2006, and a public hearing July 25, 2006.) These August and October revisions provide 8-hour ozone maintenance plans for the three parishes named above, as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Implementation Rule (*see* 40 CFR 51.905(a)(4)). The purpose of these plans is to ensure continued attainment and maintenance of the NAAQS for 8-hour ozone in Beauregard, Grant, and St. Mary Parishes.

In this action, EPA is approving the State's 8-hour ozone maintenance plans for the areas of Beauregard, Grant, and St. Mary Parishes because EPA finds that the LDEQ submittal meets the requirements of section 110(a)(1) of the CAA, EPA's rule, and is consistent with EPA's guidance. As required, these plans provide for continued attainment and maintenance of the 8-hour ozone NAAQS in the area for 10 years from the effective date of the area's designation as unclassifiable/attainment for the 8-hour ozone NAAQS, and include components illustrating how each Parish will continue in attainment of the 8-hour ozone NAAQS and contingency measures. Each of the section 110(a) (1) plan components is discussed below.

(a) Attainment Inventory. The LDEQ developed comprehensive inventories of VOC and NO_X emissions from area, stationary, and mobile sources using 2002 as the base year to demonstrate maintenance of the 8-hour ozone NAAQS for Beauregard, Grant, and St. Mary Parishes. The year 2002 is an appropriate year for the LDEQ to base attainment level emissions because States may select any one of the three years on which the 8-hour attainment designation was based (2001, 2002, and 2003). The State's submittals contain the detailed inventory data and summaries by source category. The 2002 base year inventory is a good choice. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values on which the 8-hour ozone designation decisions were based. It also is one of the years in the 2002–2004 period used to establish baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the rule as June 2004. In accordance with these requirements, the State of Louisiana compiles a statewide EI for point sources on an annual basis. For stationary point sources, for Beauregard, Grant, and St. Mary Parishes, the LDEQ provided estimates for each commercial or industrial operation that emits 100 tons or more per year of VOC or NO_X in Appendix A of each maintenance plan. Stationary non-point source data was provided by E.H. Pechan & Associates, Inc., through the Central Regional Air Planning Association (CENRAP) using the methodology in ''Consolidation of Emissions Inventories'', section C, page 26. On-road mobile emissions of VOC and NO_X were estimated using EPA's MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived from the ''Emission Inventory Development For Mobile Sources and Agricultural Dust Sources for the Central States'' produced by Sonoma Technology, Inc. for CENRAP in October 2004 using EPA's NONROAD 2004 non-road mobile emissions computer model. EPA finds that the LDEQ prepared the 2002 base year emissions inventories for the three Parishes consistent with EPA's long-established guidance memoranda.

In projecting data for the attainment year 2014 inventory, LDEQ used several methods to project data from the base year 2002 to the years 2008, 2011, and 2014. These projected inventories were developed using EPA-approved technologies and methodologies. Point source and non-point source projections were derived from the Emissions Growth Analysis System version 4.0 (EGAS 4.0). Non-road mobile projections were derived from EGAS 4.0, as well as from the National Mobile Inventory Model.

The following tables provide VOC and NO_X emissions data for the 2002 base attainment year inventory, as well as projected VOC and NO_X emission inventory data for the years 2008, 2011, and 2014. Please see the Technical Support Document (TSD) for additional emissions inventory data including projections by source category for each parish.

BEAUREGARD PARISH VOC AND NO_X EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)

Emissions	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC	13.91	13.96	13.96	14.02
Total NO_X	20.88	20.79	20.78	20.84

As shown in the table above, total VOC and total NO_X emissions for Beauregard Parish are projected to remain nearly the same over the 10-year period of the maintenance plan.

GRANT PARISH VOC AND NO_X EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)

Emissions	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC	8.99	8.23	7.57	7.09
Total NO_X	5.73	5.13	4.82	4.58

As shown in the table above, total VOC and total NO_X emissions for Grant Parish are projected to decrease somewhat over the 10-year period of the maintenance plan.

ST. MARY PARISH VOC AND NO_X EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)

Emissions	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC	18.74	16.29	15.50	15.01
Total NO_X	37.10	37.79	38.43	39.15

Emission projections for future years in St. Mary Parish indicate a downward trend in VOC emissions through 2014. NO_X emission projections through 2014 reflect an increase of 2.05 tons per day by the year 2014, or approximately 5%, from 37.10 to 39.15 tpd. This small projected increase which occurs over a 12-year period is a result of calculations for the point and non-point source emissions categories. Emissions from non-road mobile and on-road mobile sources are projected to decrease. In contrast, VOC emissions are projected to decrease by 3.73 tons per day, or approximately 20%, from 18.74 to 15.01 tpd. The projected 20% reduction in VOC emissions is expected to sufficiently offset the projected 5% increase in NO_X emissions, enabling the area to continue to maintain the 8-hour ozone standard.

Please see the TSD for more information on EPA's analysis and review of the State's methodologies, modeling data and performance, etc. for developing the base and attainment year inventories. As shown in the tables above, the State has demonstrated that the future year 8-hour ozone emissions will be less than the 2002 base attainment year's emissions. The attainment inventories submitted by the LDEQ for these areas are consistent with the criteria as discussed in the EPA Maintenance Plan Guidance memo dated May 20, 2005. EPA finds that the future emissions levels in 2008, 2011 and 2014 are expected to be similar to or less than the emissions levels in 2002.

(b) Maintenance Demonstration. The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 8-hour ozone standard for the 10 year period following the effective date of designation as unclassifiable/attainment. The end projection year is 10 years from the effective date of the attainment designation, which for Beauregard, Grant, and St. Mary Parishes was June 15, 2004. Therefore, these plans must demonstrate attainment through 2014. As discussed in section (a) Attainment Inventory above, Louisiana has identified the level of ozone-forming emissions in Beauregard, Grant, and St. Mary Parishes that were consistent with attainment of the NAAQS for ozone in 2002. Louisiana has projected VOC and NO_X emissions for the years 2008, 2011, and 2014 in Beauregard, Grant, and St. Mary Parishes and EPA finds that the future emissions levels in those years are expected to be similar or below the emissions levels in 2002. Please see the TSD for more information on EPA's review and evaluation of the State's 2008, 2011, and 2014 projected emissions inventories.

Louisiana relies on several air quality measures that will provide for additional 8-hour ozone emissions reductions in Beauregard, Grant, and St. Mary Parishes. These measures include the following, among others: (1) Implementation of EPA's National Rule for VOC Emission Standards for Automobile Refinish Coatings, Consumer Products, and Architectural Coatings, (2) enacting of specific requirements from EPA's Tier 2 Motor Vehicle Emission Standards, EPA's Heavy-Duty Engine and Vehicle Standards, as well as EPA's gasoline and highway diesel fuel sulfur control requirements, (3) EPA's required control of emissions from non-road diesel engines and fuels, and (4) implementation of the Federal Clean Air Interstate Rule (CAIR) (70 FR 25162). The purpose of these control measures is to reduce levels of 8-hour ozone, including the areas of Beauregard, Grant, and St. Mary Parishes.

As an additional demonstration of maintenance, Louisiana references the EPA modeling conducted for CAIR in the maintenance plan submittals. Louisiana is a state that must implement CAIR, and the EPA CAIR modeling indicates that all Louisiana parishes will be in attainment with the 8-hour ozone standard by 2010, with continued attainment projected through 2015. This analysis is consistent with the projections discussed above in (a) Attainment Inventory.

(c) Ambient Air Quality Monitoring. In May 2003, after a technical and statistical analysis, the Regional Office agreed with the State of Louisiana that the Ragley monitoring site in Beauregard Parish and the Bentley monitoring site in Grant Parish could be discontinued upon submittal of a revised maintenance plan, which turned out to be November 28, 2005 for Grant Parish and May 19, 2006 for Beauregard Parish. The Bentley site in Grant Parish, however, was destroyed by fire on August 13, 2005, before the end of the 2005 ozone season. Since there was not adequate time to establish a new monitor for the remainder of the 2005 ozone season, EPA calculated its 2005 design value with the available information as 73 ppb. (The ozone season in the State of Louisiana is from January to December for the Parishes discussed in this notice.) In the same May 2003 letter, after the completion of the technical and statistical analysis, the Regional Office agreed with the State that the Morgan City monitoring site in St. Mary Parish could be discontinued at the end of the 2003 ozone season. Nevertheless, the State of Louisiana has committed in its maintenance plans for Beauregard, Grant, and St. Mary Parishes to provide operation of an appropriate ozone monitoring network and to work with EPA in compliance with 40 CFR part 58 with regard to the continued adequacy of such a network, if EPA determines monitoring is needed.

The Ragley monitoring site in Beauregard Parish has monitored attainment with the 8-hour ozone standard since 1998 through 2005. The 8-hour ozone NAAQS is 0.08 parts per million based on the three-year average of the fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area. The standard is considered to be attained at 84 parts per billion (ppb). The three most recent 8-hour ozone design values for the Ragley site in Beauregard Parish are 73 ppb for 2003, 73 ppb for 2004, and 75 ppb for 2005. The Bentley monitoring site in Grant Parish has monitored attainment with

the 8-hour ozone standard since 1998 through 2004. The most recent 8-hour ozone design values for the Bentley site in Grant Parish are 78 ppb for 2002, 74 ppb for 2003, 73 ppb for 2004, and 73 ppb for 2005. The design value for 2005 is calculated to be 73 ppb, based upon the 8 months and 12 days of available data.

In St. Mary Parish, the Morgan City monitoring site has monitored attainment with the 8-hour ozone standard since 2001 through 2005. The State did not discontinue the monitor after the end of the 2003 ozone season as allowed but continued to operate it through the 2005 ozone season. The three most recent 8-hour ozone design values for St. Mary Parish are 74 ppb for 2003, 73 ppb for 2004, and 76 ppb for 2005.

(d) Contingency Plan. The section 110(a) (1) maintenance plans include contingency provisions to correct promptly any violation of the NAAQS that occurs. The contingency indicator for the Beauregard, Grant, and St. Mary Parish maintenance plans is based on updates to the emission inventories. The triggering mechanism for activation of contingency measures is a ten percent or greater increase in emissions of either VOC or NO_X based on the 2002 emissions inventory. In these maintenance plans, if contingency measures are triggered, LDEQ is committing to implement the measures as expeditiously as practicable, but no longer than 24 months following the trigger.

The following contingency measures are identified for implementation: (1) Lowering VOC RACT applicability thresholds for Stage 1 gasoline controls, (2) NO_X controls on major sources (100 tpy and greater), (3) Emission offsets for permits (1.10 ratio for VOC and NO_X), and (4) Other measures deemed appropriate at the time as a result of advances in control technologies. These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a) (1) of Continued Attainment. Continued attainment of the 8-hour ozone NAAQS in the areas of Beauregard, Grant, and St. Mary Parishes will depend, in part, on the air quality measures discussed previously (see II. b) above). In addition, Louisiana commits to verify the 8-hour ozone status in each maintenance plan through annual and periodic evaluations of the emissions inventories. In the annual evaluations, Louisiana will review VOC and NO_X emission data from stationary point sources. During the periodic evaluations (every three years), Louisiana will update the emissions inventory for all emissions source categories, and compare the updated emissions inventory data to the projected 2008, 2011 and 2014 attainment emissions inventories to verify continued attainment of the 8-hour ozone standard.

III. The State of Louisiana's Request To Relax the Federal Reid Vapor Pressure Standard in Grant Parish

The State of Louisiana has submitted a request to EPA to relax the federal Reid Vapor Pressure (RVP) standard from 7.8 psi to 9.0 psi in Grant Parish during the ozone control season (June 1 to September 15). The Grant Parish section 110(a) (1) maintenance plan provides a modeled analysis of emissions from on-road mobile sources, including a comparison of VOC emissions using both the 7.8 and 9.0 psi RVP gasoline, for the three projection years: 2008, 2011, and 2014. The following Table provides the data resulting from the State's analysis comparing projected VOC emissions in Grant Parish for an RVP of 7.8 psi and 9.0 psi.

GRANT PARISH: RVP COMPARISON EFFECT ON VOC EMISSIONS

Year	7.8 psi RVP VOC (tpd)	9.0 psi RVP VOC (tpd)
2002	1.27	N/A
2008	0.80	0.90
2011	0.63	0.70
2014	0.52	0.57

The Table above shows that Grant Parish is projected to continue to attain the 8-hour ozone standard with either a 7.8 or 9.0 psi RVP gasoline. The overall effect on VOC emissions from the difference between 7.8 and 9.0 psi RVP gasoline is 0.1 tpd or less for each of the three projection years. Further, each of the projected VOC emission inventories using 9.0 psi RVP gasoline is less than the baseline VOC emission inventory for the 2002 attainment year. Based upon this data, the Grant Parish 8-hour maintenance plan demonstrates that the use of either 7.8 or 9.0 psi RVP gasoline in the parish will allow the area to continue to meet the 8-hour ozone NAAQS.

EPA has promulgated regulations establishing the volatility standards. In a separate rulemaking, EPA will address the State's request.

IV. Final Action

Pursuant to section 110 of the Act, EPA is approving the 8-hour ozone maintenance plans for Beauregard, Grant, and St. Mary Parishes, which were submitted by LDEQ on August 23, 2006, August 23, 2006, and October 10, 2006, respectively, which ensure continued attainment of the 8-hour ozone NAAQS through the year 2014. We have evaluated the State's submittals and have determined that they meet the applicable requirements of the Clean Air Act and EPA regulations, and are consistent with EPA policy.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on January 7, 2008 without further notice unless we receive adverse comment by December 6, 2007. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

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. 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). 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 standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 is not economically significant.

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 CAA. 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.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2008. 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 26, 2007.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 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 T—Louisiana

■ 2. In § 52.970, the table in paragraph (e) entitled, ''EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES'', is amended by adding three new entries to the end of the table as follows:

§ 52.970 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
8-Hour Ozone Section 110 Maintenance Plan.	Beauregard Parish, LA	8/23/06	11/06/07 [Insert FR page number where document begins].	
8-Hour Ozone Section 110 Maintenance Plan.	Grant Parish, LA	8/23/06	11/06/07 [Insert FR page number where document begins].	
8-Hour Ozone Section 110 Maintenance Plan.	St. Mary Parish, LA	9/27/06	11/06/07 [Insert FR page number where document begins].	

■ 3. Section 52.975, entitled, ''Redesignations and maintenance plans; ozone'', is amended by adding a new paragraph (h) as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

* * * * *

(h) Approval. The Louisiana Department of Environmental Quality (LDEQ) submitted 8-hour ozone maintenance plans for the areas of Beauregard, Grant, and St. Mary Parishes on August 23, 2006, August 23, 2006, and October 10, 2006, respectively. The three areas are designated unclassifiable/attainment for the 8-hour ozone standard. EPA determined these requests for Beauregard, Grant, and St. Mary Parishes were complete on October 9, 2006, October 9, 2006, and November 30, 2006, respectively. The maintenance plans meet the requirements of section 110(a)(1) of the Clean Air Act, and are consistent with EPA's maintenance plan guidance document dated May 20, 2005. The EPA therefore approved the 8-hour ozone maintenance plans for the areas

of Beauregard, Grant, and St. Mary parishes on November 6, 2007.

* * * * *

[FR Doc. E7–21687 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 412, 413, and 489

[CMS–1533–CN3]

RIN 0938–A070

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2008 Rates; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects wage index, case-mix index, and geographic adjustment factor errors in the final rule with comment period that appeared in the August 22, 2007 **Federal Register** entitled ''Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2008 Rates Final Rule''; and the correction notice that appeared in the October 10, 2007 **Federal Register** entitled ''Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2008 Rates; Correction''.

DATES: *Effective Date:* October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Miechal Lefkowitz, (410) 786–5316. Valerie Miller, (410) 786–4535.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc 07–3820 of August 22, 2007 (72 FR 47130) and in FR Doc. 07–4875 of October 10, 2007 (72 FR 57634), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section of this notice.

We issued the fiscal year (FY) 2008 hospital inpatient prospective payment systems (IPPS) final rule with comment period on August 1, 2007. The FY 2008 IPPS final rule with comment period appeared in the August 22, 2007 **Federal Register**, hereinafter referred to as the FY 2008 IPPS final rule with comment period.

We issued a correction notice for the FY 2008 IPPS final rule with comment period on September 28, 2007. The correction notice appeared in the October 10, 2007 **Federal Register** hereinafter referred to as the second FY 2008 IPPS correction notice.

The provisions in this correction notice are effective as if they had been included in the FY 2008 IPPS final rule with comment period. Accordingly, the corrections are effective October 1, 2007.

II. Summary of Errors

We recently discovered a small number of inadvertent technical or typographical errors. Therefore, this notice corrects the errors that appeared in the FY 2008 IPPS final rule with comment period and the second FY 2008 IPPS correction notice.

In the second FY 2008 IPPS correction notice (72 FR 57637), there were typographical errors in some of the case mix indices listed in Table 2. The case mix index (CMI) values for some of the providers listed in Table 2 of that correction notice were intended to be the same as the CMI values in Table 2 of the FY 2008 IPPS final rule with comment period. However, there was an inadvertent typographical error that resulted in the CMI values for certain providers being displayed on the wrong line. Therefore, in this notice, we are correcting some of the entries in Table 2 to reflect the proper CMI values for these providers.

Table 2 also contained errors in wage indices for providers 140B10 and 220074. Each hospital is a part of a multicampus hospital, and each hospital is reclassified to the labor market area where other hospitals associated with its provider number are located. We note that these hospitals were properly assigned the reclassified wage index in the FY 2008 IPPS final rule with comment period. However, in the second FY 2008 IPPS correction notice, Table 2 inadvertently listed each hospital's geographic area wage index rather than the hospital's reclassified wage index. Provider 140B10 was mistakenly assigned 1.0583, the area wage index for Lake County-Kenosha County, IL–WA (CBSA 29404). Therefore, in section III. item 1 of this notice (correction of Table 2), the wage index for provider 140B10 is corrected to 1.0472, the reclassified wage index for Chicago-Naperville-Joliet, IL (CBSA 16974). In addition, provider 220074 was mistakenly assigned 1.0533, the area wage index value for Providence-New Bedford-Fall River, RI–MA (CBSA 39300). Therefore, in section III. item 1 of this notice (correction of Table 2), the wage index for provider 220074 is corrected to 1.1304, the reclassified wage index for Boston-Quincy, MA (CBSA 14484).

In Tables 2, 4A, and 4C of the FY 2008 IPPS final rule with comment period and the second FY 2008 IPPS correction notice, there was also an inadvertent error in the wage index calculation for two core-based statistical areas (CBSAs). In calculating the wage indices in the FY 2008 IPPS final rule with comment period, a provider was inadvertently included in CBSA 16180 Carson City, NV, when it is actually geographically located in CBSA 39900 Reno-Sparks, NV. The effect of this change is that the wage indices for the eight providers in these two CBSAs will change. Therefore, in section III. of this notice, we are correcting the wage indices for these providers in these two CBSAs in Tables 2, 4A, and 4C. We note that wage index corrections may be retroactive to the beginning of the Federal fiscal year if the requirements specified in § 412.64(k)(2)(ii) are met. The requirements in § 412.64(k)(2)(ii) are as follows: (1) The fiscal intermediary or Medicare Administrative Contractor (FI/MAC) or CMS made an error in tabulating data used for the wage index calculation; (2) the hospital knew about the error in its wage data and requested the FI/MAC and CMS to correct the error both within the established schedule for making corrections to the wage data (which is at least before the beginning of the fiscal year for the applicable update to the hospital inpatient prospective payment system) and using the established process; and (3) CMS agreed before October 1 that the FI/MAC or CMS made an error in tabulating the hospital's wage data and the wage index should be corrected. Since the wage indices errors that are corrected in this notice meet the requirements specified in § 412.64 of our regulations, these corrections are effective October 1, 2007.

Table 4C of the second FY 2008 IPPS correction notice also contained typographical errors in the geographic adjustment factor (GAF) for two CBSAs, CBSA 13820 (Birmingham-Hoover, AL) and CBSA 26620 (Huntsville, AL). Therefore, in this notice, we are correcting the GAFs for these CBSAs. We note that the wage indices for these CBSAs were correct in the second FY 2008 IPPS correction notice and are included in this notice to provide the reader with the wage indices and along with the corrected GAFs.

III. Correction of Errors

In FR Doc. 07–4875 of October 10, 2007 (72 FR 57634), make the following corrections:

1. On pages 57637 through 57698, in Table 2— Hospital Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2006; Hospital Wage Indexes for Federal Fiscal Year 2008; Hospital Average Hourly Wages for Federal Fiscal Years 2006 (2002 Wage Data), 2007 (2003 Wage Data), and 2008 (2004 Wage Data); and 3-Year Average of Hospital Average Hourly Wages, the listed entries are corrected to read as follows:

TABLE 2.—HOSPITAL CASE-MIX INDEXES FOR DISCHARGES OCCURING IN FEDERAL FISCAL YEAR 2006; HOSPITAL WAGE INDEXES FOR FEDERAL FISCAL YEAR 2008; HOSPITAL AVERAGE HOURLY WAGES FOR FEDERAL FISCAL YEARS 2006 (2002 WAGE DATA), 2007 (2003 WAGE DATA), AND 2008 (2004 WAGE DATA); AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES

Provider No.	Case-mix index	FY 2008 wage index	Average hourly wage FY 2006	Average hourly wage FY 2007	Average hourly wage FY 2008	Average hourly wage (3 years)
140001	1.1034	0.8715	22.3170	22.3001	22.2003	22.2726
140002	1.3394	0.8983	24.6954	27.0165	27.4779	26.4101
140007	1.3523	1.0588	28.3482	30.7378	31.4024	30.1866
140008	1.4485	1.0588	28.5297	29.1767	31.8008	29.7872
140B10 [3]		1.0472	35.1024	31.8806	40.1360	35.1264
220001	1.1993	1.1355	29.0014	30.6070	31.2316	30.2898
220002	1.3836	1.1488	30.3598	32.4356	33.6649	32.2137
220003	1.1827		22.0549			22.0549
220006			30.8599	30.7673	33.6438	31.7232
220008	1.2814	1.1304	30.1043	31.3385	34.7924	32.1143
220010	1.2471	1.1304	29.7998	30.7804	32.0925	30.8934
220011	1.1289	1.1488	34.4064	34.7655	36.5640	35.2410
220012	1.5403	1.2612	35.7872	37.8763	39.7564	37.8806
220015	1.1909	1.0451	28.3397	29.6315	32.4903	30.2089
220016	1.1221	1.0451	28.0608	30.4813	32.5863	30.3587
220017	1.2751	1.1844	29.7108	31.6170	33.3020	31.5466
220019	1.0840	1.1355	23.2544	24.4009	25.7855	24.4947
220020	1.2035	1.1304	26.5305	28.5288	30.8458	28.6772
220024	1.2983	1.0451	27.3488	28.7342	31.9491	29.2912
220025	1.0403	1.1355	23.0637	25.6478	30.4369	26.1069
220028			32.0980	31.7122	39.3089	34.1922
220029	1.1319	1.1304	28.6970	30.6935	31.6363	30.3492
220030	1.1315	1.0451	24.4289	26.8849	28.1347	26.5400
220031	1.6670	1.1844	34.8183	36.8477	38.9433	36.9174
220033	1.2129	1.1304	28.2539	31.8249	32.3495	30.8022
220035	1.4179	1.1304	28.6238	31.4470	34.8739	32.8577
220036	1.5119	1.1844	31.5184	33.1436	35.9124	33.5798
220046	1.4766	1.0053	28.1396	30.4460	31.4510	30.0573
220049	1.2148	1.1488	27.7518	30.4740	32.4652	30.2584
220050	1.0817	1.0451	26.3768	28.3434	29.5194	28.1065
220051	1.3058	0.9706	29.8380	30.2552	30.1022	30.0683
220052	1.1342	1.1844	29.8577	32.4130	32.3532	31.5202
220058	0.9584	1.1355	24.9642	25.7247	27.8893	26.1881
220060	1.1735	1.1844	32.3362	32.5477	34.7336	33.2260
220062	0.5718	1.1355	24.2779	25.0766	25.4224	24.9426
220063	1.2551	1.1488	27.3968	30.2866	32.9283	30.2274
220065	1.2422	1.0451	26.5513	27.6009	30.1103	28.0583
220066	1.3440	1.0451	27.1317	27.8073	29.9736	28.3106
220067	1.1846	1.1844	29.8911	30.2222	32.4019	30.8648
220070	1.1331	1.1488	31.9283	33.1299	34.2598	33.1439
220071	1.8639	1.1844	32.2936	36.5065	37.4087	35.4748
220073	1.1778	1.1304	31.3566	34.2989	36.0289	33.8953
220074		1.1304	28.4930	30.5607	31.4730	30.1564
290001	1.8514	1.0836	31.1981	36.3129	35.5113	34.2992
290002	0.9058	0.9704	18.3469	17.3876	23.9348	19.4284
290006	1.1835	1.0680	27.9501	31.7301	31.9838	30.5940
290009	1.7155	1.0836	29.8019	36.2724	32.3348	32.7010
290019	1.4106	1.0680	28.6158	29.3650	30.5964	29.5670
290032	1.4261	1.0836	31.7105	31.6711	34.6589	32.6749
290049	1.3649	1.0836			26.0725	26.0725
290051	1.6073	0.9865				

[3] This provider, 140B10, is part of a multi-campus provider, 140010, that is comprised of campuses that are located in two different CBSAs. For the FY 2008 wage index, a new provider record was created, designated with a "B" in the 4th position of the provider number, to distinguish between the portion of the wages and hours of the multi-campus facility that is being allocated between the two different CBSAs. Please refer to the FY 2008 final rule, section III.H.I.7 "Geographic Reclassification for Multi-campus Hospitals," for more details on this provision.

2. On pages 57698 through 57721, in Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas by CBSA—FY 2008, the listed entries are corrected to read as follows:

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS BY CBSA—FY 2008

CBSA code	Urban area (constituent counties)	Wage index	GAF
16180	Carson City, NV[2] Carson City, NV.	0.9865	0.9907
39900	Reno-Sparks, NV Storey County, NV. Washoe County, NV.	1.0836	1.0565

[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2008. New Jersey floor is imputed as discussed in the FY 2005 IPPS final rule (69 FR 49109) and in section III.G.2 of the preamble in this final rule.

3. On pages 57722 through 57726, in Table 4C—Wage Index and Capital Geographic Adjustment (GAF) for Hospitals that are Reclassified by CBSA, the listed entries are corrected to read as follows:

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED BY CBSA—FY 2008

CBSA code	Area	Wage index	GAF
13820	Birmingham-Hoover, AL	0.8690	0.9083
16180	Carson City, NV	0.9704	0.9796
26620	Huntsville, AL	0.8725	0.9108
39900	Reno-Sparks, NV	1.0680	1.0461

IV. Waiver of Proposed Rulemaking and the 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

For reasons noted below, we find good cause to waive proposed rulemaking and the 30-day delayed effective date for the technical corrections in this notice. This notice merely corrects typographical and technical errors in the addendum of the FY 2008 IPPS final rule with comment period and the second FY 2008 IPPS correction notice and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule with comment period. As a result, this notice is intended to ensure that the FY 2008 IPPS final rule with comment period accurately reflects the policies adopted in the FY 2008 IPPS final rule with comment period. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule or delaying the effective date of these changes is unnecessary and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 31, 2007.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 07–5513 Filed 11–1–07; 10:12 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071030629–7630–01]

RIN 0648–XD72

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 2,031 nm^2 (6,966 km^2), southeast of Portland, Maine, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours November 8, 2007, through 2400 hours November 22, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM)

rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40? N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period;(2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On October 26, 2007, an aerial survey reported and aggregation of eleven right whales in the proximity of 43° 24′ N latitude and 68° 21′ W longitude. The position lies approximately 30nm southeast of Portland, Maine. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

43° 52′ N., 68° 51′ W (NW Corner)
43° 52′ N., 67° 59′ W
43° 46′ N., 67° 59′ W
43° 46′ N., 67° 50′ W
43° 05′ N., 67° 50′ W
43° 05′ N., 68° 47′ W
43° 12′ N., 68° 47′ W
43° 12′ N., 68° 51′ W
43° 52′ N., 68° 51′ W (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/pot Gear

Fishermen utilizing lobster trap/pot gear within portions of Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area that overlap with the DAM zone are required to utilize all the following gear

modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. The breaking strength of each net panel must not exceed 1,100 lb(498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours November 8, 2007, through 2400 hours November 22, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the requiredrestrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: October 31, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 07–5524 Filed 11–1–07; 2:29 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XD73

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels Participating in the Rockfish Entry Level Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific ocean perch allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 1, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 Pacific ocean perch TAC allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA is 364 mt as established by the 2007 and 2008 final harvest specifications (72 FR 9676, March 5, 2007) for groundfish in the GOA and as listed on the website at *http://www.fakr.noaa.gov/sustainablefisheries/goarat/07rppallocations.xls*.

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TAC of Pacific ocean perch allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 31, 2007.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: November 1, 2007.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–5525 Filed 11–1–07; 2:29 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 214
Tuesday, November 6, 2007

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. AMS–PY–07–0065]

RIN 0581–AC73

Multiyear Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading and Audit Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading, certification, and audit services for the next two fiscal years, FY 2008 and FY 2009. The fees and charges need to be increased by 2.76% to 7.74% to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs. The AMS is required to collect fees from users of these services to cover the costs of services rendered.

DATES: Comments must be received on or before December 6, 2007.

ADDRESSES: Send written comments, in duplicate, to David Bowden, Jr., Chief, USDA, AMS, PY, Standards, Promotion and Technology Branch, STOP 0256, Room 3932–S, 1400 Independence Avenue, SW., Washington, DC 20250–0256. Comments, in duplicate, also may be faxed to (202) 720–2930.

Comments also may be submitted electronically to: *http://www.regulations.gov.*

Comments received will be available for public inspection at the above location between 8 a.m. and 4:30 p.m., e.t., Monday through Friday, except legal holidays, or can be reviewed on *http://www.regulations.gov.*

All comments should reference docket number AMS–PY–07–0065 and note the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Charles L. Johnson, Chief, Grading Branch, (202) 720–3271.

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

The Agricultural Marketing Act of 1946 (AMA), as amended (7 U.S.C. 1621–1627), gives AMS the authority to provide services so that agricultural products may be marketed to their best advantage, that global marketing and trade may be facilitated, and that consumers may be able to ascertain characteristics involved in the production and processing of products and obtain the quality of product they desire. The AMA also provides for the collection of fees from users of these services that are reasonable and cover the cost of providing services. Voluntary grading and certification of eggs, poultry, and rabbits and verification and conformance audits, fall within this authorization.

A recent review determined that the existing fee schedule, effective April 1, 2007, will not generate sufficient revenue to cover program costs while maintaining an adequate trust fund reserve balance in FY 2008 and FY 2009. Revenue, investment income and other adjustments in FY 2006 were $36 million while expenses were $35 million, resulting in a trust fund reserve balance increase from $12.3 million to $13.3 million.[1]

FY 2007 revenue, investment income and other adjustments are currently projected at $35.9 million and expenses in FY 2007 are projected at $35.8 million. This will result in a trust fund reserve balance of $13.4 million.

Without a fee increase, FY 2008 revenue is projected to be $35 million. Expenses are projected to be $37.4 million, which would leave a reserve of $11 million. With a fee increase, FY 2008 revenue is projected at $37.5 million. The fee increase will result in a trust fund reserve balance of $13.5 million.

Without a fee increase, FY 2009 revenue is projected at $34.9 million. Expenses are projected at $38.2 million, which would leave a reserve of $7.7 million. With a fee increase, FY 2009 revenue is projected at $38.8 million. The fee increase will result in a trust fund reserve balance of $14 million.

Employee salaries and benefits account for approximately 85 percent of the total operating budget. The last general and locality salary increase for Federal employees became effective on January 1, 2007, and it materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 1.7 percent; however, the increase was actually 1.81 to 3.02 percent, depending on locality. The average annual increase in salary over the past five years has been 3.71 percent and was used for the projected salary increase for January 2008 and January 2009. Also, from October 2007 through September 2009, salaries and fringe benefits of federally-licensed State employees are estimated to increase by about 6.0 percent.

The hourly rate for resident and non-resident service covers graders' salaries and benefits. The current hourly rates of $39.04, $69.68, and $80.12 for the resident and fee service cover graders' salaries and benefits, plus the cost of travel and supervision. The minimum monthly administrative volume charge for resident poultry, shell egg, and rabbit grading remains at $275, because the fee analysis determined that raising the minimum monthly administrative charge would not generate additional reserve. For FY 2008 the non-resident fee rates would be $74.08 for regular hours and $86.68 for weekend and holiday hours, an increase of approximately 7 percent from the previous year. Beginning in January 2009, the non-resident fee rates would be $77.28 for regular hours and $93.24 for weekend and holiday hours, an increase of approximately 6 percent from the previous year.

Current rates for auditing services are $82.16 and $102.84. In FY 2008 they would be $87.56 for regular hours and $112.00 for weekend and holiday hours, an increase of approximately 8 percent from the previous year. Beginning in January 2009, the audit rates would be $89.20 for regular hours and $116.08 for weekend and holiday hours, an increase of approximately 3 percent.

Elimination of the inauguration charge of $310, when an application for service has been received, is also proposed. By restructuring the inauguration charge, expenses incurred

[1] With the increase, the reserve would be $14 million. However a six month reserve is needed for all program contingencies, including shutdown.

for plant surveys and billed to applicants will reflect a more accurate accounting for the services rendered. Since a plant survey still would be required, the fee for the survey would be borne by the applicant at rates set forth for shell eggs in § 56.46 (a)–(c) and for poultry and rabbits in § 70.71 (a)–(c), plus any travel and additional expenses.

The following table compares current and proposed fees. The fee rate would be increased by approximately 7.0 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits.

Service	Current	Proposed 2008	Proposed 2009
Resident Service (egg, poultry, and rabbit grading)			
Inauguration of service	310	0	0
Hourly charges:			
Regular hours	39.04	40.88	42.68
Administrative charges—Poultry grading:			
Per pound of poultry	.00043	.00045	.00047
Minimum per month	275	275	275
Maximum per month	3,075	3,150	3,225
Administrative charges—Shell egg grading:			
Per 30-dozen case of shell eggs	.053	.055	.058
Minimum per month	275	275	275
Maximum per month	3,075	3,150	3,225
Administrative charges—Rabbit grading:			
Based on 25% of grader's salary, minimum per month	275	275	275
Non-resident Service (egg, poultry, and rabbit grading)			
Hourly charges:			
Regular hours	39.04	40.88	42.68
Administrative charges:			
Based on 25% of grader's salary, minimum per month	275	275	275
Nonresident Fee and Appeal Service (egg, poultry, and rabbit grading)			
Hourly charges:			
Regular hours	69.68	74.08	77.28
Weekend and holiday hours	80.12	86.68	93.24
Audit Fee (Plant Systems, Animal Welfare, QSVP)			
Hourly charges:			
Regular hours	82.16	87.56	89.20
Weekend and holiday hours	102.84	112.00	116.08

Executive Order 12866

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

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–674), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 390 users of Poultry Programs' services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use program services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if fees are adequate and if costs are reasonable. A recent review determined that the existing fee schedule, effective April 1, 2007, will not generate sufficient revenue to cover program costs while maintaining an adequate reserve balance in FY 2008 and FY 2009.

Expenses in FY 2008 are projected at $37.4 million. Without a fee increase, FY 2008 revenue is projected at $35 million. With a fee increase, FY 2008 revenues are projected at $37.5 million.

Expenses in FY 2009 are projected at $38.2 million. Without a fee increase, FY 2009 revenues are projected at $34.9 million. With a fee increase, FY 2009 revenues are projected at $38.8 million.

This action would raise the fees charged to users of grading and auditing services. The AMS estimates that, overall, this rule would yield an about $2.4 million during FY 2008 and $3.9 million for FY 2009. The hourly rate for resident and nonresident service would increase by approximately 4.71 percent in FY 2008 and 4.4 percent in FY 2009. The fee rate would increase by approximately 7 percent in FY 2008 and approximately 6 percent in FY 2009. The audit fee would increase by approximately 8 percent in FY 2008 and approximately 3 percent in FY 2009. The impact of these rate changes in a poultry plant would range from about $0.000078 to $0.000952 per pound of poultry handled in FY 2008 and $0.000085 to $0.001068 in FY 2009. In a shell egg plant, the range would be $0.000273 to $0.003499 per dozen eggs handled in FY 2008 and $0.000410 to $0.004870 per dozen eggs handled in FY 2009.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

A 30-day comment period is provided for interested persons to comment on this proposed rule. Given the current financial status of this program, this comment period is deemed appropriate in order to implement, as early as possible in FY 2008, any fee changes adopted as a result of this rulemaking action.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that Title 7, Code of Federal Regulations, parts 56 and 70 be amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 56.46 [Amended]

2. Section 56.46 is amended by:

A. Removing in paragraph (b), ''$69.68'' and adding ''$74.08, beginning January 27, 2008, and $77.28 on or after January 25, 2009,'' in its place.

B. Removing in paragraph (c), ''$80.12 per hour'' and adding ''$86.68 per hour, beginning January 27, 2008 and $93.24 per hour on or after January 25, 2009,'' in its place.

C. Removing in paragraph (d), ''$82.16'' and adding ''$87.56 beginning January 27, 2008, and $89.20 on or after January 25, 2009,'' in its place.

D. Removing in paragraph (e), ''$102.84 per hour'' and adding ''$112.00 per hour beginning January 27, 2008 and $116.08 per hour on or after January 25, 2009,'' in its place.

3. Section 56.52 is amended by:

A. Removing the first sentence of paragraph (a)(1), and adding three sentences to read as set forth below; and

B. Removing in paragraph (a)(4), ''$0.053'' and adding ''$0.055 beginning January 27, 2008, and $0.058 on or after January 25, 2009,'' in its place, and removing ''$3,075'' and adding ''$3,150 beginning January 27, 2008, and $3,225 on or after January 25, 2009,'' in its place.

§ 56.52 Charges for continuous grading performed on a resident basis.

* * * * *

(1) When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to § 56.30. The costs for completing the plant survey shall be borne by the applicant on a fee basis at rates set forth in § 56.46 (a) through (c), plus any travel and additional expenses. No charges will be assessed when the application is required because of a change in name or ownership. * * *

* * * * *

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

4. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 70.71 [Amended]

5. Section 70.71 is amended by:

A. Removing in paragraph (b) ''$69.68'' and adding ''$74.08 beginning January 27, 2008, and $77.28 on or after January 25, 2009,'' in its place.

B. Removing in paragraph (c) ''$80.12 per hour'' and adding ''$86.68 per hour beginning January 27, 2008, and $93.24 per hour on or after January 25, 2009,'' in its place.

C. Removing in paragraph (d), ''$82.16'' and adding ''$87.56 beginning January 27, 2008, and $89.20 on or after January 25, 2009,'' in its place.

D. Removing in paragraph (e), ''$102.84 per hour'' and adding ''$112.00 per hour beginning January 27, 2008, and $116.08 per hour on or after January 25, 2009,'' in its place.

6. Section 70.77 is amended by:

A. Removing the first sentence of paragraph (a)(1), and adding three sentences to read as set forth below; and

B. Removing in paragraph (a)(4), ''$0.00043'' and adding ''$0.00045 beginning January 27, 2008 and $0.00047 on or after January 25, 2009,'' in its place, and removing ''$3,075'' and adding ''$3,150 beginning January 27, 2008, and $3,225 on or after January 25, 2009,'' in its place.

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(1) When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to § 70.34. The costs for completing the plant survey shall be borne by the applicant on a fee basis at rates set forth in § 70.71(a) through (c), plus any travel and additional expenses. No charges will be assessed when the application is required because of a change in name or ownership. * * *

* * * * *

Dated: October 18, 2007

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–5571 Filed 11–2–07; 11:54 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

8 CFR Parts 100 and 212

[USCBP–2007–0084]

RIN 1651–AA71

Issuance of a Visa and Authorization for Temporary Admission Into the United States for Certain Nonimmigrant Aliens Infected With HIV

AGENCY: Customs and Border Protection; DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) proposes to amend the regulations pertaining to admission of certain nonimmigrants to the United States. This rule proposes to authorize issuance of certain short-term nonimmigrant visas and temporary admission for aliens who are inadmissible solely due to their infection with the human immunodeficiency virus (HIV). The proposed rule would provide, on a limited and categorical basis, a more streamlined process to authorize these nonimmigrant aliens to enter the United

States as visitors (for business or pleasure) for up to thirty days, subject to certain conditions to ensure the control and departure of such aliens. Nonimmigrant aliens who do not meet the specific circumstances of these clarifying instructions or who do not wish to consent to the conditions that would be imposed by this proposed rule may still elect a case-by-case determination of their eligibility for a waiver of the nonimmigrant visa requirements for aliens afflicted with HIV. The proposed rule also updates regulatory language to conform to a statutory change brought about by the Immigration Act of 1990.

DATES: Comments must be received on or before December 6, 2007.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Border Security Regulations Branch, Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Michael D. Olszak, Customs and Border Protection, Office of Field Operations, (703) 261–8424.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal. Comments that will provide the most assistance to DHS in developing these procedures will reference a specific portion of the proposal, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

II. Intent of the Proposed Rule

This proposed rule, initiated at the direction of the President (*see* White House, *Fact Sheet: World AIDS Day 2006,* December 1, 2006) through the Secretary of State (*see* Section VIII), would establish a more streamlined process for issuance of a nonimmigrant visa and temporary admission to the United States for aliens who are inadmissible to the United States due to HIV infection. DHS is proposing to allow these aliens to enter the United States as visitors (for business or pleasure) for a temporary period not to exceed thirty days, without being required to seek such admission under the more complex (individualized, case-by-case) process provided under the current DHS policy. The proposed rule would provide an additional avenue for temporary admission of these aliens while minimizing costs to the government and the risk to public health. These goals are accomplished by setting requirements and conditions that govern an alien's admission, affect certain aspects of his or her activities while in the United States (*e.g.*, using proper medication when medically appropriate, avoiding behavior that can transmit the infection), and ensure his or her departure after a short stay. Nonimmigrant aliens who do not meet the specific circumstances of these clarifying instructions or who do not wish to consent to the conditions imposed by this rule may still elect a case-by-case determination of their eligibility for a waiver of the nonimmigrant visa requirements for aliens afflicted with HIV.

III. Applicable Law and Regulations

An alien infected with HIV is inadmissible to the United States under section 212(a)(1)(A)(i) of the Immigration and Nationality Act of 1952 (INA), as amended, 8 U.S.C. 1182(a)(1)(A)(i). An inadmissible alien may be temporarily admitted to the United States under INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A).

DHS may authorize temporary admission to the United States under 8 CFR 212.4(a) or (b). The categorical authorization process proposed in this rule would be added to 8 CFR 212.4 in new paragraph (f).

IV. HIV Infection as a Ground of Inadmissibility

The INA has provided since 1952 that aliens ''who are afflicted with any dangerous contagious disease'' are ineligible to receive a visa and are to be excluded from admission into the United States. Aliens infected with HIV have been inadmissible to the United States since 1987, when Congress directed the Department of Health and Human Services (HHS) to add HIV infection to its list of dangerous contagious diseases. Public Law 100–71, section 518, 101 Stat. 475 (July 11, 1987); 52 FR 32543 (Aug. 28, 1987). Accordingly, aliens infected with HIV have been ineligible to receive visas and have been excludable from admission to the United States because of infection with a dangerous contagious disease. *See* INA section 212(a)(6), 8 U.S.C. 1182(a)(6) (1988).

In 1990, Congress amended the INA by revising the classes of excludable aliens to provide that an alien ''who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance'' is excludable from the United States. Immigration Act of 1990, Public Law 101–649, section 601, 104 Stat. 4978 (Jan. 23, 1990); INA section 212(a)(1)(A)(i), 8 U.S.C. 1182(a)(1)(A)(i), (effective June 1, 1991). HHS subsequently published a proposed rule that would have removed from the list all sexually transmitted diseases (including HIV). 56 FR 2484 (Jan. 23, 1991). Based on comments received and reconsideration of the issues, HHS published an interim rule retaining all sexually transmitted diseases on the list and committing its initial proposal to further study. 56 FR 25000 (May 31, 1991). While HHS again considered a regulatory amendment to remove HIV from the list, Congress amended INA section 212(a)(1) to specify that ''infection with the etiologic agent for acquired immune deficiency syndrome'' is a communicable disease of public health significance, thereby making explicit in the INA that aliens with HIV are ineligible for admission into the United States. National Institutes of Health Revitalization Act of 1993, Public Law 103–43, section 2007, 107 Stat. 122, (June 10, 1993).

The INA, as presently worded, makes inadmissible to the United States any alien ''who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the

etiologic agent for acquired immune deficiency syndrome * * *.'' INA section 212(a)(1)(A)(i), 8 U.S.C. 1182(a)(1)(A)(i). Therefore, any alien infected with HIV is inadmissible to the United States.

V. Authority To Grant Temporary Admission

The Secretary of Homeland Security has broad discretionary authority, subject to certain exceptions, to approve the issuance of a nonimmigrant visa and the temporary admission into the United States of an alien inadmissible due to many of the existing grounds of inadmissibility, including HIV infection. See INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A). Pursuant to INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), the Secretary of Homeland Security may not authorize issuance of a nonimmigrant visa or admission into the United States of an otherwise inadmissible alien if the alien's inadmissibility is based on certain security or terrorism related grounds, specifically INA sections 212(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), and (3)(E)(ii), 8 U.S.C. 1182(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), and (3)(E)(ii). The Secretary is not prohibited from authorizing the issuance of a nonimmigrant visa or admission if the alien's inadmissibility is based on HIV infection under INA section 212(a)(1)(A), 8 U.S.C. 1182(a)(1)(A) (health-related grounds).

The Secretary of Homeland Security may authorize issuance of a nonimmigrant visa and temporary admission to the United States (*see* INA section 212(d)(3)(A)(i), 8 U.S.C. 1182(d)(3)(A)(i), and 8 CFR 212.4(a)) or authorize temporary admission only (*see* INA section 212(d)(3)(A)(ii), 8 U.S.C. 1182(d)(3)(A)(ii), and 8 CFR 212.4(b)). Nonimmigrant aliens may seek a nonimmigrant visa and temporary admission to the United States from a consular officer or the Secretary of State. An alien who is applying for a nonimmigrant visa and is known, or believed by, the consular officer to be ineligible for a visa, may, after approval by the Secretary of Homeland Security of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily in the discretion of the Secretary of Homeland Security. [0] An applicant who has already been issued a nonimmigrant visa (or who has been granted a waiver of the nonimmigrant visa requirement) may apply to DHS for approval of temporary admission; such approval is granted at the discretion of the Secretary of Homeland Security.

When Congress first enacted this authority to authorize admission for nonimmigrants despite inadmissibility in 1952, the Committee on the Judiciary stated that ''cases will continue to arise where there are extenuating circumstances which justify the temporary admission of otherwise inadmissible aliens, both for humane reasons and for reasons of public interest.'' S. Rep. No. 1137, 82d Cong., 2d Sess. 12 (1952). This statement of Congressional understanding and purpose has continued validity today and supports the proposed streamlined process for authorizing, on a categorical basis, issuance of a nonimmigrant visa and temporary admission to the United States for HIV-positive aliens seeking admission to the United States under B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant status who satisfy the conditions discussed below.

The Secretary may exercise his discretion by rulemaking rather than on a case-by-case basis. As the Supreme Court noted, ''[e]ven if a statutory scheme requires individualized determinations * * *, the decisionmaker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority.'' *Lopez* v. *Davis*, 531 U.S. 230, 243–44 (2001) (*quoting American Hosp. Ass'n* v. *NLRB*, 499 U.S. 606, 612 (1999)) (emphasis added). *See also id.* at 244 (noting that purely case-by-case decision making ''could invite favoritism, disunity, and inconsistency''). Accordingly, ''it is a well-established principle of administrative law that an agency to whom Congress grants discretion may elect between rulemaking and ad hoc adjudication to carry out its mandate.'' *Yang* v. *INS*, 79 F.3d 932, 936 (9th Cir.), *cert. denied*, 519 U.S. 824 (1996).

Absent an indication of contrary Congressional intent in the INA, the Secretary of Homeland Security may determine to exercise discretion under INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), on a categorical basis, to authorize issuance of a nonimmigrant visa to, and admission of, otherwise inadmissible aliens, including aliens inadmissible due to HIV infection. Unlike other provisions governing the Secretary of Homeland Security's authority to waive grounds of inadmissibility, the language of INA section 212(d)(3)(A) does not clearly limit the Secretary's exercise of discretion under that provision to case-by-case determinations. The reference in the last sentence of section 212(d)(3)(A) to aliens, in the plural, provides contextual support for the Secretary exercising this discretion on a categorical basis. In contrast, an explicit waiver provision under the INA specifically requires the exercise of discretion ''in individual cases.'' INA section 212(d)(4), 8 U.S.C. 1182(d)(4) (permitting waiver of ''[e]ither or both of the requirements'' of INA section 212(a)(7)(B)(i), 8 U.S.C. 1182(a)(7)(B)(i)). The lack of comparable language limiting the Secretary's authority under INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), indicates that Congress did not intend to prohibit the Secretary from exercising his authority on a categorical basis under this section.

DHS has previously granted blanket authorization under INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), for specific, limited purposes, such as to permit HIV-positive aliens to attend particular events, including the Salt Lake City Olympic games, the United Nations General Assembly Special Session on HIV/AIDS in 2001, various Universal Fellowship of Metropolitan Community Churches events, and the 2006 Gay Games in Chicago. The legislative history of INA section 212(d)(3), 8 U.S.C. 1182(d)(3), suggests that DHS should apply the provision where ''there are extenuating circumstances which justify the temporary admission of otherwise admissible aliens, both for humane reasons and for reasons of public interest.'' S. Rep. No. 1137, *supra*, at 12. Authorization on a categorical basis, as proposed by this rule, would require approval only by the consular officer or the Secretary of State, provided that all requirements and conditions are satisfied; authorization under more expansive terms and conditions will still require individualized, case-by-case consideration by DHS.

VI. Current DHS Policy

DHS policy currently allows otherwise inadmissible aliens, pursuant to INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), to apply for admission on a case-by-case basis by employing a balancing test involving several factors (regardless of whether the authorization is applied for before a consular officer, the Secretary of State or directly to DHS). Consideration is given to the risk of harm to society if the applicant is admitted into the United States, the seriousness of any immigration law or criminal law violations (the basis for inadmissibility), and the nature of the reason for travel. *See Matter of Hranka*, 16 I&N Dec. 491 (BIA 1978). These are

general criteria applicable to any application for authorization under INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A). This proposed rule would incorporate current policy further developed in a series of instructions from the former Immigration and Naturalization Service (INS) and the Department of Justice.

In cases involving HIV-positive aliens, DHS policy requires that consideration be given to whether: (1) The danger to the public health is minimal, (2) the possibility of the transmission of the infection is minimal, and (3) any cost will be incurred by any level of government agency in the United States (local, state, or federal) without the prior consent of that agency. Consular officers must find (based on evidence provided by the applicant that satisfies reviewing officials) that the former two factors are no more than minimal and that there will not be a cost to an agency absent prior consent.

Other specific instructions clarify that nonimmigrant visas may be granted and temporary admission may be provided to short-term nonimmigrant individuals with HIV who establish that their entry into the United States, for up to thirty days, would confer a public benefit that outweighs any risk to the public health. A sufficient public benefit can include attendance at academic or health-related activities (including seeking medical treatment), conducting temporary business in the United States, or visiting close family members in the United States. Currently, applicants whose situations do not fit the specific circumstances of these clarifying instructions, such as those entering for periods of more than thirty days or for tourism purposes alone, must apply for case-by-case consideration and authorization. These applicants must satisfy the more general criteria of the general policy (risk of harm to society, seriousness of immigration/criminal violations, reason for travel), as these criteria apply to all situations. Determination of the risk of harm to society includes whether the danger to the public health and the possibility of transmission of the infection are minimal and whether there will be any cost incurred by any level of government agency in the United States.

In addition, supplemental instructions provide that DHS may grant authorization for admission whenever the Secretary of HHS advises that attendance at a scientific, professional, or academic conference in the United States is in the public interest, and the alien establishes that his or her visit to the United States is for the purpose of seeking admission to such a designated conference and will not exceed ten days.

Under the current policy, these criteria are applied on a case-by-case basis to applications (or a consular officer's or the Secretary of State's recommendation) for authorization for admission. In practice, DHS, the Department of State (DOS), and the Department of Justice (DOJ)(through the former Immigration and Naturalization Service (INS)) have denied very few applications (or recommendations) for authorization for admission when the specific criteria for short stays of up to thirty days were satisfied or when the Secretary of HHS initiated the designated-event waiver for visits of up to ten days. However, some applications have been denied when the applicant failed to meet all relevant criteria, e.g., when an applicant refused to provide adequate assurance that he or she would comply with medical advice against engaging in behavior that would risk transmitting the infection to others.

In addition, under the general criteria, as applied in practice to HIV-positive applicants for admission, these applicants must establish that they are aware of their HIV positive condition, have received (and are following) adequate medical counseling, are currently under medical care, and are traveling to the United States with, or will have access to, a supply of drugs, as medically appropriate, that is adequate to cover the length of the anticipated stay. The applicant also must be able to demonstrate that he or she has adequate insurance, which is accepted in the United States, or other financial means available to cover anticipated medical expenses.

VII. Experience Gained

During the twenty years since Congress directed HHS to add infection with HIV to the list of dangerous contagious diseases, thus adding infection with HIV as a ground of inadmissibility under the INA, the Executive Branch has gained considerable experience in deciding when to allow the admission of nonimmigrant aliens with HIV infection. The history of this period has shown that DHS and the Department of Justice have consistently approved DOS consular recommendations that nonimmigrant visas be granted to aliens with HIV infection when the applicant: Sought to travel to the United States for thirty days or less for a lawful purpose consistent with the business visitor or tourist nonimmigrant classification; had been diagnosed with HIV infection; had received medical counseling; was in compliance with medically-advised behavior and medically-prescribed treatment protocols; was able to demonstrate availability once in the United States of an adequate supply of antiretroviral medications if medically appropriate; and was not likely to require assistance that would result in any cost incurred by any level of government agency in the United States without the prior consent of that agency.

HHS and its components also have gained considerable expertise regarding the threat to the public posed by HIV-positive individuals. HHS has expressed the view that present DHS policy has provided adequate protection to the public health of the United States and HIV-positive aliens who are aware of their medical conditions, receive appropriate medical counseling, and are in compliance with medically appropriate treatment protocols and medically advised behavior have presented little risk to the public health in the United States.

VIII. Presidential Directive Predicating This Rulemaking

On December 1, 2006, President Bush directed the Secretary of State to request that the Secretary of Homeland Security initiate a rulemaking that would propose a categorical waiver of inadmissibility for aliens who are HIV-positive and who seek to enter the United States on short-term visas. In furtherance of the President's directive, Secretary of State Rice, by letter dated June 6, 2007, recommended that the Secretary of Homeland Security grant a limited waiver of inadmissibility under the INA to persons who are currently inadmissible to the United States solely due to their HIV-positive condition. Secretary Rice specifically recommended a waiver for persons who seek short-term B–1 and B–2 visas and do not have active, contagious, symptomatic infections associated with HIV or AIDS.

DHS shares the President's and Secretary Rice's firm commitment to enable, on a categorical basis, the admission into the United States for short visits of HIV-positive aliens, who do not exhibit symptoms indicative of an active AIDS-related condition that is contagious, through a permanent, streamlined process that employs standardized criteria as opposed to the current case-by-case, individualized process.

IX. The Proposed Rule

DHS is proposing, on a categorical basis under new provisions of 8 CFR 212.4(f), to authorize issuance of visas and admission of nonimmigrant aliens who are currently inadmissible to the

United States solely due to their HIV-positive status. DHS is proposing this categorical authorization to allow application for admission to the United States under B–1 (business visitor) or B–2 (visitor for pleasure) status for a period not to exceed thirty days if the applicant establishes specific facts and meets certain conditions.

A. Safeguards

This proposed rule does not conflict with Congress' restriction regarding HIV as a communicable disease of public health significance and is consistent with Congress' humanitarian purpose in enacting INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A). The proposed regulations demonstrate DHS's recognition of the seriousness of HIV infection and, at the same time, comply with the statute by prescribing ''conditions * * * to control and regulate the admission and return of inadmissible aliens applying for temporary admission.'' INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A). Thus, under the proposed rule, an HIV-positive applicant for a nonimmigrant visitor visa would be required to satisfy criteria designed to ensure that the risk to the public health is minimized to the greatest reasonable extent and that no cost will be imposed on any level of government in the United States (local, state, federal) without prior consent of a government agency. The short duration of admission under the proposed regulations, and the various conditions designed to control the alien's temporary stay and ensure his or her return, minimize the risk of disease transmission in the United States, as well as the risk of increased burden on our public health resources. HIV-positive aliens not meeting the criteria under the proposed regulations would still be able to seek individualized (case-by-case) consideration for admission pursuant to INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), under current DHS policy.

B. Specific Conditions of Admission, Control, and Return

The proposed rule includes specific requirements (based in part on criteria discussed above), which are set forth here by type.

(1) *Medical etiology.* A visa applicant, who has tested positive for HIV, must show a controlled state of HIV infection such that there is no anticipated need for additional medical care during the applicant's visit to the United States. A controlled state of HIV infection means that the applicant does not exhibit, at the time of application, symptoms indicative of an active AIDS-related condition that is contagious or that requires urgent treatment.

In cases involving HIV-positive aliens, DHS policy requires that consideration be given to whether: (1) The danger to the public health is minimal, (2) the possibility of the transmission of the infection is minimal, and (3) any cost will be incurred by any level of government agency in the United States (local, state, or federal) without the prior consent of that agency. Consular officers must find (based on evidence provided by the applicant that satisfies reviewing officials) that the former two factors are no more than minimal and that there will not be a cost to an agency absent prior consent.

(2) *Understanding.* The applicant must establish that he or she is aware of, understands, and has been counseled on the nature and severity of his or her medical condition. As part of this process, the applicant also must establish that he or she has been counseled on and is aware of the communicability of his or her medical condition, including the fact that the applicant must not donate blood or blood components.

(3) *Limited potential health danger.* The applicant must establish that his or her admission to the United States for a short duration poses minimal risk of danger to the public health in the United States. The applicant must establish that his or her admission poses a minimal risk of danger of transmission of the infection to any other person in the United States through demonstration of knowledge of the routes of transmission of HIV, including sexual contact, sharing needles, and blood transfusions.

(4) *Continuity of health care.* As with existing policy, admission is contingent upon assurances that the applicant will not impose costs on the health care system of the United States. Accordingly, the applicant must establish that he or she has, or will have access to, an adequate supply of antiretroviral drugs if medically appropriate for the anticipated stay in the United States. The Food and Drug Administration (FDA) has developed enforcement policies under which it may exercise its enforcement discretion not to interdict the importation of unapproved medications for personal use in such circumstances. See *http://www.fda.gov/ora/compliance_ref/rpm/chapter9/ch9-2.html*.

Moreover, the applicant must establish that he or she possesses sufficient assets or insurance, that is accepted in the United States, that would cover any medical care that the applicant might require in the event of illness at any time while in the United States. These two factors lead to a third factor: The applicant must establish that his or her admission will not create any cost to the United States, or a state or local government, or any agency thereof, without the prior written consent of that agency.

(5) *Temporary Admission.* The proposed categorical treatment, like the individualized treatment under current DHS policy, is designed only for a temporary admission. Accordingly, the applicant must establish that he or she is seeking admission solely for activities that are consistent with the B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant classifications. Travel for tourism only is an activity consistent with this categorical admission. The applicant must understand that because of his or her inadmissibility, he or she is not eligible to seek admission under the Visa Waiver Program. INA section 217, 8 U.S.C. 1187. Under current statutes and regulations, all HIV-positive applicants for admission from Visa Waiver Program countries must apply for and be granted a visa to be admitted to the United States. The applicant must also understand and agree that no single admission to the United States will be for more than thirty days. Because the proposed regulations apply to a specific ground of inadmissibility, the applicant must establish that no other ground of inadmissibility applies. Authorization for admission may not be granted if any other ground of inadmissibility exists. If the applicant requires an additional waiver of inadmissibility, the applicant must use the process described in either 8 CFR 212.4(a) or (b), as applicable.

(6) *Enforcement of the Authorization Agreement.* As this authorization for admission is being granted for a narrow, limited purpose, DHS believes that the applicant must agree to certain conditions. DHS believes that the applicant must understand and agree in writing, once the Department of State issues a waiver form, that he or she, for the purpose of admission pursuant to this waiver, is waiving the opportunity to apply for any extension of nonimmigrant stay, a change of nonimmigrant status, or adjustment of status to that of permanent resident,[1] whether filed affirmatively with DHS or defensively in response to an action for removal. DHS alternatively solicits comments on whether consular officers may orally advise or provide written notification to the applicant that he or

[1] Nothing within this proposed rule would prohibit an alien from applying for an immigrant visa before a consular officer abroad.

she has waived the opportunity to apply for any extension of nonimmigrant stay, a change of nonimmigrant status, or adjustment of status to that of permanent resident in lieu of the applicant executing a written waiver of these opportunities. If the applicant chooses not to waive the opportunity to apply for any extension of nonimmigrant stay, a change of nonimmigrant status, or adjustment of status to that of permanent resident, the applicant is not eligible for the streamlined process delineated in this proposed rule. However, the applicant may still elect a case-by-case determination of his or her eligibility for a waiver of the nonimmigrant visa requirements for aliens afflicted with HIV.

Furthermore, under the proposed rule, an applicant must understand and agree that any failure to comply with conditions of admission will make him/her permanently ineligible for authorization for admission under the proposed regulations.

(7) *Duration.* The nonimmigrant visa issued to the applicant will be valid for twelve months or less and may be used for a maximum of two applications for admission. The authorized period of stay will be for thirty calendar days calculated from the initial admission under this visa. The holder of the nonimmigrant visa will be permitted to apply for admission at a United States port of entry at any time during the validity of the visa if he or she is otherwise admissible in B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant status.

C. Benefit of the Proposed Regulations

An alien inadmissible to the United States due to HIV infection under INA section 212(a)(1)(A)(i), 8 U.S.C. 1182(a)(1)(A)(i) (or any other ground of inadmissibility under section 212(a), 8 U.S.C. 1182(a), except (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), or (3)(E)(ii)), has been, and is currently, able to apply for admission pursuant to INA section 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A), under either 8 CFR 212.4(a) or (b). Although authorization for admission pursuant to 8 CFR 212.4(a) is sought from a consular officer or the Secretary of State, it is an application for issuance of a nonimmigrant visa and temporary admission that requires the approval of the Secretary of Homeland Security. Authorization for admission pursuant to 8 CFR 212.4(b) is applied for, with payment of a fee, directly to DHS (on Form I–192) by an alien who already has a nonimmigrant visa, or for whom the nonimmigrant visa requirement is waived, and is approved at the discretion of the Secretary of Homeland Security.

These existing processes require action by DHS upon submission of eligibility information (the same kind of information that is required under the proposed regulations) that must be reviewed, evaluated, and ruled upon on a case-by-case (or individualized) basis. In contrast, the proposed regulation would authorize a consular officer or the Secretary of State to categorically grant a nonimmigrant visa and authorize the applicant to apply for admission into the United States, notwithstanding an applicant's inadmissibility due to HIV infection, if the applicant meets applicable requirements and conditions, without the additional step of seeking review and decision by DHS prior to granting of the nonimmigrant visa. Using a categorical authorization would provide a more streamlined and quicker process for obtaining temporary admission under INA section 212(d)(3)(A)(i), 8 U.S.C. 1182(d)(3)(A)(i).

X. Other Proposed Amendment

DHS also is proposing to amend 8 CFR 212.4(e) to reflect changes in the grounds of inadmissibility brought about by the Immigration Act of 1990. Section 212.4(e) authorizes the temporary admission of a nonimmigrant visitor notwithstanding inadmissibility under INA section 212(a)(1), if the alien is accompanied by a member of his or her family or a guardian. Prior to June 1, 1991, INA section 212(a)(1) made excludable from the United States aliens who were ''mentally retarded.'' Effective June 1, 1991, the Immigration Act of 1990 reorganized all medical grounds of excludability into a new general provision, INA section 212(a)(1). The references in 8 CFR 212.4(e) to INA section 212(a)(1) were never updated. There is no present ground of inadmissibility for aliens who are ''mentally retarded.'' However, INA sections 212(a)(1)(A)(iii)(I) and 212(a)(1)(A)(iii)(II), 8 U.S.C. 1182(a)(1)(A)(iii)(I) and 8 U.S.C. 1182(a)(1)(A)(iii)(II), make inadmissible aliens who have, or have had, a mental disorder with associated threatening or harmful behavior. DHS is proposing to amend 8 CFR 212.4(e) by replacing the references to INA section 212(a)(1) with references to the current INA sections relating to the grounds of inadmissibility for aliens with mental disorders, INA sections 212(a)(1)(A)(iii)(I) and 212(a)(1)(A)(iii)(II). As neither the current nor the proposed regulations authorize the granting of a nonimmigrant visa, only aliens who already have facially valid nonimmigrant visas or for whom the nonimmigrant visa requirement is waived would be able to benefit from the proposed amendment to 8 CFR 212.4(e).

XI. Statutory and Regulatory Reviews

A. Regulatory Flexibility Act.

DHS has reviewed the proposed rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The individual aliens to whom this rule applies are not small entities as that term is defined in 5 U.S.C. 601(6). Thus, the RFA does not apply.

B. Unfunded Mandates Reform Act of 1995

The proposed rule will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

C. Executive Order 12866

This rule has been determined to be a significant regulatory action under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review. There are no new costs to the public associated with this rule. This rule does not create any new or additional requirements.

D. Executive Order 13132

The proposed rule will 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Executive Order 12988

The proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all

Departments are required to submit to OMB, for review and approval, any reporting and recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

Proposed Amendments to the Regulations

For the reasons stated in the preamble, parts 100 and 212 of chapter I of title 8 of the Code of Federal Regulations (8 CFR parts 100 and 212) are proposed to be amended as follows:

PART 100—STATEMENT OF ORGANIZATION

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

Authority: 8 U.S.C. 1103; 8 CFR part 2.

§ 100.7 [Amended]

2. Section 100.7 is amended by removing the citation ''212.4(g)'' in the list of parts and sections and adding in its place the citation ''212.4(h)''.

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

3. The general authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

* * * * *

4. Section 212.4 is amended by:

a. In paragraph (e), removing the citation ''212(a)(1)'' in the paragraph text and adding in its place ''212(a)(1)(A)(iii)'', and removing the citation ''212(a)(1) of the Act'' and adding in its place ''212(a)(1)(A)(iii)(I) or (II) of the Act due to a mental disorder and associated threatening or harmful behavior'';

b. Redesignating paragraphs (f), (g), (h), and (i) as paragraphs (g), (h), (i), and (j) and adding new paragraph (f) to read as follows:

§ 212.4 Applications for the exercise of discretion under section 212(d)(1) and 212(d)(3).

* * * * *

(f) *Inadmissibility under section 212(a)(1) for aliens inadmissible due to HIV.*

(1) *General.* Pursuant to the authority in section 212(d)(3)(A)(i) of the Act, any alien who is inadmissible under section 212(a)(1)(A)(i) of the Act due to infection with the etiologic agent for acquired immune deficiency syndrome (HIV infection) may be issued a B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant visa by a consular officer or the Secretary of State, and be authorized for temporary admission into the United States for a period not to exceed thirty days, provided that the authorization is granted in accordance with paragraphs (f)(2) through (f)(7) of this section. Application under this paragraph (f) may not be combined with any other waiver of inadmissibility.

(2) *Conditions.* An alien with HIV infection who applies for a nonimmigrant visa before a consular officer may be issued a B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant visa and admitted to the United States for a period not to exceed thirty days, provided that the applicant establishes that:

(i) The applicant has tested positive for HIV;

(ii) The applicant is not currently exhibiting symptoms indicative of an active, contagious infection associated with acquired immune deficiency syndrome;

(iii) The applicant is aware of, has been counseled on, and understands the nature, severity, and the communicability of his medical condition;

(iv) The applicant's admission poses a minimal risk of danger to the public health in the United States and poses a minimal risk of danger of transmission of the infection to any other person in the United States;

(v) The applicant will have in his or her possession, or will have access to, as medically appropriate, an adequate supply of antiretroviral drugs for the anticipated stay in the United States and possesses sufficient assets, such as insurance that is accepted in the United States, to cover any medical care that the applicant may require in the event of illness at any time while in the United States;

(vi) The applicant's admission will not create any cost to the United States, or a state or local government, or any agency thereof, without the prior written consent of the agency;

(vii) The applicant is seeking admission solely for activities that are consistent with the B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant classification;

(viii) The applicant is aware that no single admission to the United States will be for a period that exceeds 30 days;

(ix) The applicant is otherwise admissible to the United States and no other ground of inadmissibility applies;

(x) The applicant is aware that he or she cannot be admitted under section 217 of the Act (Visa Waiver Program);

(xi) The applicant is aware that any failure to comply with any condition of admission set forth under this paragraph (f) will thereafter make him or her ineligible for authorization under this paragraph; and

(xii) The applicant, for the purpose of admission pursuant to a waiver under this paragraph (f), waives any opportunity to apply for an extension of nonimmigrant stay, a change of nonimmigrant status, or adjustment of status to that of permanent resident;

(3) *Nonimmigrant visa.* A nonimmigrant visa issued to the applicant for purposes of temporary admission under section 212(d)(3)(A)(i) of the Act and this paragraph (f) may not be valid for more than 12 months or for more than two applications for admission during the 12 month period. The authorized period of stay will be for thirty calendar days calculated from the initial admission under this visa.

(4) *Application at U.S. port.* If otherwise admissible, a holder of the nonimmigrant visa issued under section 212(d)(3)(A)(i) of the Act and this paragraph (f) is authorized to apply for admission at a United States port of entry at any time during the period of validity of the visa in only the B–1 (business visitor) or B–2 (visitor for pleasure) nonimmigrant categories.

(5) *Admission limited.* Notwithstanding any other provision of this chapter, no single period of admission under section 212(d)(3)(A)(i) of the Act and this paragraph (f) may be authorized for more than 30 days.

(6) *Failure to comply.* No authorization under section 212(d)(3)(A)(i) of the Act and this paragraph (f) may be provided to any alien who has previously failed to comply with any condition of an admission authorized under this paragraph.

(7) *Additional limitations.* The Secretary of Homeland Security or the Secretary of State may require additional evidence or impose additional conditions on granting authorization for temporary admissions under this paragraph (f) as international conditions may indicate.

(8) *Option for case-by-case determination.* If the applicant does not meet the criteria under this paragraph (f), or does not wish to agree to the conditions for the streamlined 30-day visa under this paragraph (f), the applicant may elect to utilize the process described in either paragraph (a) or (b) of this section, as applicable.

* * * * *

Michael Chertoff,

Secretary.

[FR Doc. E7–21841 Filed 11–5–07; 8:45 am]

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FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 104

[Notice 2007–23]

Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed rules implementing new statutory provisions regarding the disclosure of information about bundled contributions provided by certain lobbyists and registrants. The proposed rules would require authorized committees, leadership PACs and political committees of political parties to disclose certain information about lobbyists and registrants and lobbyists' and registrants' political committees that provide bundled contributions. No final decisions have been made by the Commission on any of the proposed regulations in this Notice. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before November 30, 2007. The Commission will announce the date of a hearing at a later date. Anyone seeking to testify at the hearing must file written comments by the due date and must include in the written comments a request to testify.

ADDRESSES: All comments must be in writing, must be addressed to Ms. Amy L. Rothstein, Assistant General Counsel, and must be submitted in e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail or fax to ensure timely receipt and consideration. E-mail comments must be sent to *bundling07@fec.gov*. If e-mail comments include an attachment, the attachment must be in Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 219–3923, with paper copy follow-up. Paper comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post comments on its Web site after the comment period ends.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is proposing changes to its rules to implement section 204 of Public Law 110–81, 121 Stat. 735, the ''Honest Leadership and Open Government Act of 2007,'' signed September 14, 2007. The new law amended the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*) (''the Act'') by requiring certain political committees to disclose information about each lobbyist and registrant, and each political committee established or controlled by a lobbyist or registrant (''lobbyist/registrant PAC'' [1]), that forwards, or is credited with raising, two or more bundled contributions aggregating in excess of $15,000 during a specific period of time.[2] *See* 2 U.S.C. 434(i) (henceforth referred to as the ''new law'' or ''new 2 U.S.C. 434(i)''). The Commission uses the term ''lobbyist/registrant'' to refer to registrants and lobbyists under the Lobbying Disclosure Act of 1995 (''LDA'').

The Commission proposes to implement these provisions by adding a new subparagraph to 11 CFR 100.5(e) and adding a new section to the reporting rules at 11 CFR Part 104. The proposed reporting requirements would apply only to authorized committees of Federal candidates, political committees of political parties, and political committees directly or indirectly established, financed, maintained or controlled by a candidate or an individual holding Federal office (''leadership PACs'' [3]).

I. Background

A. The Current Statutory and Regulatory Framework

Currently, the Act and Commission regulations impose certain reporting and recordkeeping requirements for contributions received and forwarded by any person to a political committee. Each person who receives and forwards contributions to a political committee must also forward certain information identifying the original contributor. *See* 2 U.S.C. 432(b); 11 CFR 102.8.

Additionally, 2 U.S.C. 441a(a)(8) and 11 CFR 110.6 impose certain reporting and recordkeeping requirements for contributions received and forwarded by persons known as ''conduits'' or ''intermediaries'' to the authorized committees of Federal candidates. The Commission is not proposing any changes to these rules.

B. Revisions to 2 U.S.C. 434(i)—Reporting Requirements

New 2 U.S.C. 434(i) requires authorized committees of Federal candidates, leadership PACs and political committees of political parties to disclose certain information about any person reasonably known by the committee to be a lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising, two or more bundled contributions aggregating in excess of $15,000 to the committee within a ''covered period'' of time. 2 U.S.C. 434(i)(1), (2), (3) and (8). Reporting committees must disclose the name and address of the lobbyist/registrant or lobbyist/registrant PAC, the lobbyist/registrant's employer (for individual persons), and the aggregate amount of contributions bundled to the committee within the covered period. 2 U.S.C. 434(i)(1).

[1] ''PAC'' is an acronym often used to refer to a political action committee other than an authorized committee or a political committee of a political party.

[2] As discussed *infra*, the new law requires the reporting of information about certain bundled contributions that have been ''provided'' to certain political committees, and defines a ''bundled contribution'' as a contribution that is either ''forwarded'' to the political committee by a lobbyist/registrant or lobbyist/registrant PAC, or that is received by the political committee from the contributor but ''credited'' to the lobbyist/registrant or lobbyist/registrant PAC that ''raised'' it. 2 U.S.C. 434(i)(1), (8)(A). To clarify that the reporting requirement does not apply only to contributions that have been provided directly to a political committee by a lobbyist/registrant or lobbyist/registrant PAC, this NPRM describes the reporting requirement as applying to lobbyist/registrants or lobbyist/registrant PACs that have either forwarded, or that have been credited with raising, bundled contributions.

[3] The new law provides a definition of leadership PAC that the Commission proposed to implement as 11 CFR 100.5(e)(6) in a separate rulemaking regarding candidate travel. *See* 72 FR 59953 (October 23, 2007). The Commission assumes that a definition will be promulgated in the travel rulemaking before these disclosure rules are promulgated and thus, cites to 11 CFR 100.5(e)(6).

II. Proposed Revisions to 11 CFR 100.5. Political Committee (2 U.S.C. 432(4), (5), (6); 2 U.S.C. 434(i)(7)(C) and (8)(B))

Currently, 11 CFR 100.5(e) provides examples of types of political committees. Proposed 11 CFR 100.5(e)(7) would add the term ''lobbyist/registrant PAC'' as an example, and would define the term as ''any political committee established or controlled'' by a lobbyist/registrant, as defined in proposed 11 CFR 104.22(a)(3). This definition is consistent with the new law. *See* 2 U.S.C. 434(i)(7)(C). Political committees that meet this definition would have to identify themselves as such on their Statements of Organization. *See* 11 CFR 102.2(a)(1) (requiring each political committee to disclose its name, address and type on its Statement of Organization). Further, the Commission anticipates that any political committee that is already registered with the Commission and that fits this proposed definition would be required to amend its Statement of Organization to reflect its status as a lobbyist/registrant PAC.[4]

The Commission requests comments on this approach. When would a nonconnected committee be considered to be ''controlled'' by a lobbyist/registrant? Is a committee whose treasurer is a lobbyist/registrant *per se* ''controlled'' by the lobbyist/registrant? What if that treasurer serves only in a ministerial or custodial function?

As discussed further in Part III, the law requires disclosure of bundling by either an individual who registers as a lobbyist under the LDA or a ''registrant'' under that Act, which includes any organization that employs in-house lobbyists. Thus, the Commission proposes to define ''lobbyist/registrant'' to include both lobbyists and registrants under the LDA. Moreover, since the SSF of a corporation, labor organization or other connected organization (*see* 11 CFR 100.6) that employs in-house lobbyists would be, by definition, controlled by a registrant, the Commission proposes to include such SSFs within the ambit of ''lobbyist/registrant PACs.'' The Commission requests comment on this approach.

The Commission currently requires committees to identify themselves as only one type of committee. *See* FEC Form 1 Statement of Organization, Question 5 (''Type of Committee (Check One)''). How should an organization that is both an SSF and a ''lobbyist/registrant PAC'' identify itself on FEC reports? Should one type of registration control? Alternatively, should the Commission allow committees to identify themselves as more than one type of committee? Of note, allowing multiple registrations could affect the Commission's current disclosure processes.

The Commission also requests comments on the placement of the definition of ''lobbyist/registrant PAC'' in 11 CFR 100.5(e), ''examples of political committees,'' as opposed to placing this definition in proposed 11 CFR 104.22.

III. Proposed New 104.22. Disclosure of Bundling by Lobbyist/Registrants (2 U.S.C. 434(i))

To implement the new disclosure requirements, the Commission is proposing to add new 11 CFR 104.22 to its reporting regulations.

A. Definitions

1. Reporting Committee

New 2 U.S.C. 434(i) adds reporting requirements for three types of political committees: authorized committees of a candidate, leadership PACs, and political party committees. 2 U.S.C. 434(i)(6). Proposed 11 CFR 104.22(a)(1) would define the term ''reporting committee'' to encompass these three types of political committees, which are defined in 11 CFR 100.5. The Commission requests comments on this new term, ''reporting committee.''

2. Covered Period

New 2 U.S.C. 434(i) requires that reporting committees disclose information about any lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising for the committee, two or more bundled contributions aggregating in excess of $15,000 during any ''covered period.'' 2 U.S.C. 434(i)(1), (2), (3) and (8). It defines ''covered period'' as January 1 through June 30, July 1 through December 31 ''and * * * any reporting period applicable to the committee under [2 U.S.C. 434] during which any [lobbyist/registrant or lobbyist/registrant PAC] provided two or more bundled contributions to the committee in an aggregate amount greater than [$15,000].'' 2 U.S.C. 434(i)(2).

The new law also provides the Commission with the authority to require reporting committees filing their campaign finance reports more frequently than on a quarterly basis[5] to disclose information about lobbyist/registrants who provide bundled contributions in excess of $15,000 on a quarterly basis, rather than monthly. *See* 2 U.S.C. 434(i)(5)(A).

The Commission presents both a proposed and an alternative definition of ''covered period.'' Each definition would exercise the Commission's statutory authority to place monthly filers on the same schedule as committees that file quarterly campaign finance reports. 2 U.S.C. 434(i)(5)(D). For ease of public consumption of disclosed bundled contributions, consistent disclosure periods would provide the public with semi-annual aggregate snapshots for all categories of filers. Does the language in 2 U.S.C. 434(i)(5)(A) permit the Commission also to require aggregate semi-annual disclosure from these monthly filers? Should the Commission, instead, not exercise its statutory authority, and require monthly filers to disclose information about bundled contributions on a monthly and semi-annual basis? *See* 2 U.S.C. 434(i)(2).

a. Proposed Definition of ''Covered Period''

Under proposed 11 CFR 104.22(a)(2)(i), the term ''covered period'' would be the semi-annual periods of January 1 through June 30 and July 1 through December 31. Additionally, proposed 11 CFR 104.22(a)(2)(ii) provides that in any calendar year in which a reporting committee is required to file or files monthly or quarterly campaign finance reports, the covered period would also include the quarterly periods of January 1 through March 31 and July 1 through September 30 if, during those periods, a lobbyist/registrant or a lobbyist/registrant PAC provided two or more bundled contributions to the reporting committee which aggregate in excess of $15,000.

Thus, under the proposed rule, any committee that receives more than $15,000 in bundled contributions from a lobbyist/registrant or lobbyist/registrant PAC during the first or third calendar quarter would have to disclose information about the bundler twice:

[4] The Commission notes that this same identification requirement would apply to political committees that meet the definition of leadership PAC. *See* 11 CFR 100.5(e)(6). In conjunction with this rulemaking, the Commission anticipates amending FEC Form 1, the Statement of Organization, to include both ''lobbyist/registrant PAC'' and ''leadership PAC'' as types of political committees.

[5] National committees of political parties (including the national congressional campaign committees) must report monthly in all calendar years. *See* 2 U.S.C. 434(a)(4)(B); 11 CFR 104.5(c)(4). State, district and local committees of political parties are required to file monthly if they exceed certain levels of Federal election activity. *See* 2 U.S.C. 434(e)(4); 11 CFR 300.36(c). Further, some authorized committees of presidential candidates are required to file monthly during presidential election years. *See* 2 U.S.C. 434(a)(3); 11 CFR 104.5(b).

once for the report covering the quarter during which the committee received the bundled contributions from a lobbyist/registrant or lobbyist/registrant PAC, and again at the end of the six-month period.

For example, if lobbyist/registrant PAC Z is credited with having raised $20,000 for a reporting committee in the first quarter, then the reporting committee would disclose lobbyist/registrant PAC Z in its report covering the first quarter as having provided $20,000 in bundled contributions to the committee. If, in the second quarter, the reporting committee credits lobbyist/registrant PAC Z with having raised another $5,000, the reporting committee would disclose on its semi-annual report the entire $25,000 in bundled contributions provided by lobbyist/registrant PAC Z in the first two calendar quarters. The Commission requests comments on whether this is the correct reading of the statutory requirements, and whether this duplicative reporting could lead to the mistaken impression that lobbyist/registrant PAC Z provided $45,000 rather than $25,000 to the committee during the first two calendar quarters.

The Commission further requests comments on whether there is a statutory basis on which the Commission might consider some means of eliminating this duplicative reporting. For example, is there a statutory basis for the Commission to consider exempting reporting committees from having to disclose semi-annually information about lobbyist/registrants or lobbyist/registrant PACs providing bundled contributions if the information was already fully disclosed in a prior report filed with the Commission? Would this approach be confusing or result in the appearance of over-or under-reporting the contributions bundled by lobbyist/registrants or lobbyist/registrant PACs?

Is the Commission's interpretation consistent with the requirement in the new law that the Commission ''provide for the broadest possible disclosure of activities described in this subsection?''

b. Alternative Definition of Covered Period

In the alternative, the Commission requests comments on the following definition of ''covered period.'' Alternative 11 CFR 104.22(a)(2)(i) would provide that in any calendar year in which a reporting committee is required to file or files reports on a quarterly or monthly basis under 11 CFR 104.5, the covered period would be defined as quarterly periods of January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Under alternative 11 CFR 104.22(a)(2)(ii), in any calendar year in which a reporting committee files semi-annual reports, the covered period would also include the semi-annual periods of January 1 through June 30 and July 1 through December 31.

For example, if lobbyist/registrant PAC Z is credited with having raised $20,000 in the first quarter for a reporting committee that files on a monthly or quarterly basis, then the reporting committee would disclose lobbyist/registrant PAC Z in its report covering the first quarter as having provided $20,000 in bundled contributions to the committee. If, in the second quarter, the reporting committee credits lobbyist/registrant PAC Z with having raised another $5,000, the reporting committee would not disclose on its second quarter reports any bundled contributions provided by lobbyist/registrant PAC Z because the second quarter bundled contributions fell below the $15,000 threshold for the second quarter reporting period. No aggregate semi-annual reporting would be required. The Commission requests comments on whether this is a permissible reading of the statutory requirements, and whether this alternative could lead to the under reporting of contributions that take place across quarterly reporting periods, but within the semi-annual period. For example, under this alternative, a lobbyist/registrant or lobbyist/registrant PAC could provide $15,000 in bundled contributions to a reporting committee during each calendar quarter and the reporting committee would not have triggered the disclosure requirement under the new law.

Additionally, in lieu of either the proposed rule or the alternative, the Commission seeks comment on whether reporting committees should report both semi-annual and quarterly information at the end of each semi-annual period. If, in the example above, in the second quarter lobbyist/registrant PAC Z provides the reporting committee with $25,000 (having also provided $20,000 in bundled contributions in the first quarter), should the reporting committee disclose that it received $45,000 for the semi-annual period, and also disclose that it received $25,000 for the second quarter period?

3. Lobbyist/Registrant and Lobbyist/Registrant PAC

The new law applies only to contributions bundled by ''a current registrant under section 4(a) of the [LDA] [2 U.S.C. 1603(a)];[6] an individual who is listed on a current registration filed under section 4(b)(6) of such Act [2 U.S.C. 1603(b)(6)] or a current report under section 5(b)(2)(C) of such Act [2 U.S.C. 1604(b)(2)(C)]; or a political committee established or controlled by such a registrant or individual.'' 2 U.S.C. 434(i)(7).

Proposed 11 CFR 104.22(a)(3) would create a new term, ''lobbyist/registrant,'' to encompass both current registrants and individuals listed on a current registration or report filed under the LDA. As discussed above, the Commission is proposing to add a definition of ''lobbyist/registrant PAC'' at 11 CFR 100.5(e)(7).

4. Bundled Contributions

Proposed 11 CFR 104.22(a)(4)(i) and (ii) would implement new 2 U.S.C. 434(i)(8)(A) by defining the term ''bundled contribution'' as any contribution that a lobbyist/registrant or lobbyist/registrant PAC forwards to the reporting committee from the contributor, or that the reporting committee receives from the contributor but credits to the lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC.

Under proposed 11 CFR 104.22(a)(4)(i), forwarded contributions would satisfy the proposed definition of ''bundled contributions'' regardless of whether the bundler receives credit from the reporting committee. Would it be helpful to the regulated community for the Commission to define the term ''forwarded'' in the rule as, for instance, ''arranging or causing the physical or electronic delivery or transmission of a contribution''?

Under proposed 11 CFR 104.22(a)(4)(ii), a contribution must be both received by the reporting committee and credited to a lobbyist/registrant or lobbyist/registrant PAC to satisfy proposed 11 CFR 104.22(a)(4)(ii). The mere crediting of a contribution to a lobbyist/registrant or lobbyist/registrant PAC would not satisfy proposed 11 CFR 104.22(a)(4)(ii) if the contribution is not received. In the alternative, should the amount credited control? With respect to these

[6] The *Web sites* of the Secretary of the Senate and the Clerk of the House of Representatives provide the following guidance regarding who is a ''registrant'': A lobbying firm or an organization employing in-house lobbyists that files a registration pursuant to Section 4 of the Lobbying Disclosure Act of 1995. *See http://www.senate.gov/legislative/common/briefing/lobby_disc_briefing.htm#3*; *http://lobbyingdisclossure.house.gov/lda_guide.html.*

contributions, should the rule apply to in-kind contributions as well?

Proposed 11 CFR 104.22(a)(4)(iii) states that bundled contributions do not include contributions from the personal funds of the bundling person or that person's spouse. This provision would be consistent with the new law, which excludes contributions made to the reporting committee by the lobbyist/registrant or lobbyist/registrant's spouse from counting towards the $15,000 reporting threshold. See 2 U.S.C. 434(i)(3)(A).

Proposed 11 CFR 104.22(a)(5) provides that the term ''candidate involved'' means, for authorized committees, the candidate for whom the committee is authorized; and for leadership PACs, the candidate or individual holding Federal office who directly or indirectly establishes, maintains, finances or controls the leadership PAC. This is consistent with the language of the new law in describing who would credit, designate or otherwise recognize a lobbyist/registrant or lobbyist/registrant PAC with having raised contributions in excess of $15,000 during the covered period. *See* 2 U.S.C. 434(i)(8)(A)(ii). The Commission requests comments on whether the proposed provision would be helpful in providing guidance to the regulated community.

As noted above, the proposed definition of ''lobbyist/registrant'' includes current registrants under section 4(a) of the LDA (2 U.S.C. 1603(a)). Such registrants are primarily organizations that employ one or more lobbyists.

Does the new law cover bundled contributions provided by employees and agents of organizations that are registrants, when those individuals are not themselves lobbyist/registrants? Can an organization that is prohibited from making contributions, such as a corporation or a labor organization, but nonetheless is a registrant, be credited with having raised contributions?

There is seemingly some incongruity in statements made by some of the new law's supporters and the section-by-section analysis of the legislation provided by the three principal Senate authors of the bill (the ''section-by-section analysis''). *See* 153 CONG. REC. S10709 (daily ed. August 2, 2007). For example, in a colloquy on the Senate floor, Senator Feingold and Senator Obama indicated that the disclosure requirement would be triggered by contributions bundled by an employee of a lobbyist, if that employee is acting as an agent of the lobbyist, even if the employee is not listed on a current registration or report filed under the LDA. 153 CONG. REC. S10699 (daily ed. Aug. 2, 2007) (statements of Sen. Feingold and Sen. Obama). On the other hand, the section-by-section analysis states that the statute ''covers only contributions credited to registered lobbyists.'' 153 CONG. REC. S10709 (daily ed. Aug. 2, 2007). The Commission requests comments on whether the new requirements should cover employees who are agents of lobbyist/registrants or lobbyist/registrant PACs, even if such individuals are not listed as registered lobbyists under the LDA. How should the Commission give content to the statutory requirement that bundling by registrant organizations be disclosed?

In addition, how should the new law be applied with regard to crediting multiple lobbyist/registrants or lobbyist/registrant PACs involved in a single fundraiser? In a statement on the Senate floor, Senator Feingold stated that ''when two or more lobbyists are jointly involved in providing the same bundled contributions—as for instance, in the case of a fundraising event co-hosted by two or more lobbyists—then each lobbyist is responsible for and should be treated as providing the total amount raised at the event for purposes of applying the applicable threshold to the funds raised by that lobbyist'' and for reporting purposes. 153 CONG. REC. S10699 (daily ed. August, 2, 2007) (statement of Sen. Feingold). Thus, the Commission requests comments on how multiple hosts of a fundraiser should be credited by the reporting committee. For example, if three lobbyist/registrants jointly co-host a fundraiser that raises $20,000 in contributions for Senator X, should each of the three co-hosts be deemed to have raised the entire $20,000 for reporting purposes? Would this approach be misleading or inaccurate from a disclosure perspective? Should the sum total instead be prorated among the three co-hosts?

Proposed 11 CFR 104.22(a)(6) would explain the meaning of ''designations or other means of recognizing.'' The proposed rule provides that ''designations or other means of recognizing'' a lobbyist/registrant or lobbyist/registrant PAC's fundraising would include ''titles based on levels of fundraising, access to events reserved exclusively for those who generate a certain level of contributions, or similar benefits provided as a reward for successful fundraising.'' The Commission requests comments on this approach and also requests other examples of records, designations or other means of recognizing a lobbyist/registrant or lobbyist/registrant PAC's fundraising. Should service by an individual on a host committee of a fundraising event serve as ''designation or other means of recognizing that a certain amount of money has been raised by the person''? Should honorary titles within the reporting committee be deemed a ''designation or other means of recognizing that a certain amount of money has been raised by the person''? *See* 153 CONG. REC. 510699 (daily ed. Aug. 2, 2007) (statement of Sen. Obama); *id.* at 510709. Would such an approach encompass individuals who have no actual role in fundraising? Further, would any ''other means of recognizing'' have to be designated in writing?

The legislative history provides other guidance that the Commission has not proposed as a part of new 11 CFR 104.22(a)(4). In a statement on the Senate floor, Senator Feingold noted that a reporting committee must know that a lobbyist/registrant or lobbyist/registrant PAC has raised a certain amount, not just be generally aware that the lobbyist/registrant or lobbyist/registrant PAC has been fundraising. Should the Commission include a similar interpretation in the concept of credited?

B. Reporting Requirement

1. Required Disclosure

Proposed 11 CFR 104.22(b), consistent with the new law, requires reporting committees to disclose on a new form certain information about any person reasonably known to be a lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising, two or more bundled contributions in excess of $15,000 to the reporting committee during the covered period. 2 U.S.C. 434(i)(1). Specifically, the reporting committee must disclose the name of the lobbyist/registrant or lobbyist/registrant PAC, the address of the lobbyist/registrant or lobbyist/registrant PAC, the employer of the lobbyist/registrant who provided the bundled contributions (for individual lobbyist/registrants), and the amount of bundled contributions provided during the covered period. *Id.*

In conjunction with this rulemaking, the Commission intends to create a new form for disclosing information about lobbyists and lobbyist PACs that provide bundled contributions. The form would be filed with the Form 3 (House and Senate authorized committees), Form 3P (Presidential authorized committees) and Form 3X (leadership PACs and political party committees) following the appropriate covered period.

2. Reasonably Known To Be

The new law requires the disclosure of information about a person who forwards, or who is credited with having raised, two or more bundled contributions aggregating in excess of $15,000 during the covered period if the person is ''reasonably known by the [reporting] committee to be'' a lobbyist /registrant or a lobbyist/registrant PAC. 2 U.S.C. 434(i)(1). The new law requires the Commission to ''provide guidance to [reporting] committees with respect to whether a person is reasonably known by a committee to be'' a lobbyist/ registrant or lobbyist/registrant PAC. 2 U.S.C. 434(i)(5)(B). In so doing, the Commission is to include a ''requirement that [reporting] committees consult the Web sites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995.'' 2 U.S.C. 434(i)(5)(B).

Proposed 11 CFR 104.22(b)(2) would provide guidance with respect to how a reporting committee is to comply with these requirements. This paragraph directs the committee to consult the Web sites maintained by the Clerk of the House of Representatives, the Secretary of the Senate, and the Federal Election Commission in order to determine whether a person is identified on a filing under the LDA or the Act as a registrant, a lobbyist, or a political committee established or controlled by a registrant or lobbyist.

The Commission seeks comment on these proposed regulations. Does the regulatory text adequately implement the statutory requirements? May the Commission require committees to consult the Commission's Web site for information regarding registration of lobbyist/registrant PACs, since that information is not currently available on the Web sites of the Secretary of the Senate or the Clerk of the House of Representatives?

The Commission requests comments on what other guidance the Commission might issue as to how a reporting committee can reasonably know that a bundler of contributions is a lobbyist/ registrant or lobbyist/registrant PAC. What other steps could the Commission take to make information regarding lobbyist/registrant PACs more easily accessible?

C. Where To File

Under current 11 CFR Part 105, authorized committees of candidates for the House of Representatives, the principal campaign committees of Presidential candidates, and any other political committees that support such candidates must file their regular campaign finance reports with the Commission. *See* 11 CFR 105.1, 105.3 and 105.4. Authorized committees of candidates for the Senate and any other political committees that support only Senate candidates must file their reports with the Secretary of the Senate. *See* 11 CFR 105.2. Proposed 11 CFR 104.22(c) would require the form required by the new law to be filed in accordance with 11 CFR Part 105. The Commission requests comments on this proposal.

D. When To File

New 2 U.S.C. 434(i)(1) requires reporting committees to file a form listing information about each lobbyist/ registrant or lobbyist/registrant PAC with ''the first report required to be filed under this section after each covered period'' in which a lobbyist/registrant or lobbyist/registrant PAC provided bundled contributions exceeding $15,000. 2 U.S.C. 434(i)(a)(1). As noted above, the proposed rule defines ''covered period'' as the semi-annual periods of January 1 through June 30 and July 1 through December 31. Additionally, proposed 11 CFR 104.22(a)(2)(ii) provides that in any calendar year in which a reporting committee is required to file or files monthly or quarterly campaign finance reports under 11 CFR 104.5, the covered period would also include the quarterly periods of January 1 through March 31 and July 1 through September 30 if, during those periods, a lobbyist/ registrant or a lobbyist/registrant PAC provided two or more bundled contributions to the reporting committee which aggregate in excess of $15,000. Thus, proposed 11 CFR 104.22(d) would require a reporting committee to file a form semi-annually in every calendar year, and in the calendar quarters of January 1 through March 31 and July 1 through September 30 if any lobbyist/ registrant or lobbyist/registrant PAC forwarded, or was credited with having raised, two or more bundled contributions aggregating in excess of $15,000 during those calendar quarters.

The Commission requests comments on proposed 11 CFR 104.22(d).

As discussed above, the alternative definition of ''covered period'' would require reporting committees to disclose information about lobbyist/registrants or lobbyist/registrant PACs that provide bundled contributions on a slightly different schedule than that under the proposed rule. Under alternative 11 CFR 104.22(a)(2)(i), monthly and quarterly filers would be required to file, concurrently with their campaign finance reports filed in April, July, October and January, a form listing any lobbyist/registrant or lobbyist/registrant PAC that provided bundled contributions aggregating in excess of $15,000 during the previous calendar quarter. Further, in any calendar year in which a reporting committee files its campaign finance reports on a semi-annual basis, the committee would concurrently file its form disclosing information about any lobbyist/ registrant or lobbyist/registrant PAC that provided bundled contributions in excess of $15,000 during the semi-annual covered period. The Commission requests comments on the effect of the alternative ''covered period'' on report timing.

Reporting Hypotheticals

The following examples illustrate how proposed 11 CFR 104.22 would interact with the Commission's existing reporting requirements for forwarded contributions.

The first hypothetical involves the authorized committee of a candidate as the reporting committee and thus, also invokes 11 CFR 110.6 regarding earmarking contributions to authorized committees, if the person earmarking the contributions qualifies as a ''conduit'' under that section.

The second hypothetical involves either a leadership PAC or a political party committee as the reporting committee. This hypothetical would not invoke 11 CFR 110.6 because that section applies only to contributions earmarked for an authorized committee.

Hypothetical Example 1

Facts.

Candidate A's authorized committee files campaign finance reports on a quarterly basis.

On February 20, Lobbyist/Registrant Z delivers a $30,000 check to Candidate A's treasurer, representing fifteen $2,000 contributions that Lobbyist/Registrant Z collected on February 15 on behalf of Candidate A. Lobbyist/Registrant Z also provides a list of each contributor's name, mailing address, employer and occupation, and the date received by Lobbyist/Registrant Z as required under 11 CFR 110.6(c)(1)(iii) and (iv).

On March 21, Lobbyist/Registrant Z, although he does not occupy a significant position in Candidate A's campaign,[7] hosts a fundraiser on Candidate A's behalf, at which Candidate A makes a speech. At the fundraiser, five contributors hand checks totaling $10,000 directly to Candidate A.

On June 5, Lobbyist/Registrant Z delivers to the authorized committee five checks

[7] An individual who occupies a significant position within a campaign may be exempt from the earmarking regulations. See 11 CFR 110.6(b)(2)(i)(E).

totaling $6,000 that he collected on Candidate A's behalf during the preceding week.

Reporting Requirements.

1. On the committee's first quarterly campaign finance report, it must:

a. Pursuant to 11 CFR 110.6, report:

i. The name, mailing address, occupation and employer of Lobbyist/Registrant Z.

ii. As a memo entry, the total amount of contributions forwarded by Lobbyist/Registrant Z ($30,000), the date received by the committee (February 20) and a notation of whether the Lobbyist/Registrant's contribution limit was affected or not pursuant to 11 CFR 110.6(d).

iii. The name, mailing address, employer, occupation of each contributor, as well as the date that Lobbyist/Registrant Z received the contributions (February 15) and a notation that it was earmarked through him.

This reporting requirement is triggered by Lobbyist/Registrant Z's having acted as a conduit under 11 CFR 110.6 for the contributions that he received on February 15 and delivered on February 20, because he physically forwarded the contributions to the authorized committee.

b. Pursuant to 11 CFR 104.3, report for each of the five contributors who made contributions at the March 21 fundraiser: The person's name, mailing address, occupation, and employer, date received (March 21) and amounts, itemizing the contributions as necessary under 11 CFR 104.3.

c. Pursuant to proposed 11 CFR 104.22, report the name, address and employer of Lobbyist/Registrant Z, as well as the total amount bundled by Lobbyist/Registrant Z, $40,000, during the covered period. This reporting requirement is triggered because Lobbyist/Registrant Z forwarded, or was credited with raising, more than $15,000 in contributions during the committee's reporting period (the calendar quarter).

2. On the authorized committee's second quarterly campaign finance report, it must:

a. Pursuant to 11 CFR 110.6, report:

i. The name, mailing address, occupation and employer of Lobbyist/Registrant Z.

ii. As a memo entry, the total amount of contributions forwarded to the committee by Lobbyist/Registrant Z ($6,000) and the date received by the authorized committee (June 5).

iii. The name, mailing address, employer and occupation of each contributor, the date each contribution was received by Lobbyist/Registrant Z and whether the contributions affected Lobbyist/Registrant Z's contribution limits pursuant to 11 CFR 110.6(d).

Lobbyist/Registrant Z is a conduit under 11 CFR 110.6, because he collected and forwarded the contributions to the authorized committee. Thus, the authorized committee disclosed his contributions in a manner similar to hypothetical 1.a., above.

b. Pursuant to proposed 11 CFR 104.22, file a form disclosing the lobbyist/registrant's name, address and employer, as well as the aggregate amount of bundled contributions that the committee received from or credited to Lobbyist/Registrant Z during the six-month covered period ($46,000). While the aggregate amount of contributions forwarded or raised by and credited to Lobbyist/Registrant Z did not exceed $15,000 during the committee's second quarterly reporting period, the aggregate amount of bundled contributions provided by Lobbyist/Registrant Z during the January 1 through June 30 semi-annual covered period, $46,000, does exceed the $15,000 reporting threshold for that covered period.

Hypothetical Example 2

Facts.

A leadership PAC files campaign finance reports on a monthly basis.[8]

On February 20, lobbyist/registrant PAC X delivers a check to the leadership PAC for $30,000, representing contributions to the leadership PAC from fifteen individual contributors, along with information about each contributor as required under 11 CFR 110.6(c)(1)(iii) and (iv).

On March 12, lobbyist/registrant PAC X hosts a fundraiser at which the ''candidate involved'' with the leadership PAC makes a speech. Between March 13 and March 31, the leadership PAC receives 6 checks aggregating to $12,000. Each check notes that the contributor is helping the leadership PAC because of the speech given at the March 12 fundraiser. The leadership PAC thanks the contributors and also sends a note to lobbyist/registrant PAC X recognizing it for having raised the $12,000.

Reporting Requirements

1. On the leadership PAC's campaign finance report covering February, it must:

a. Pursuant to 11 CFR 104.3 and 104.8, report for each of the fifteen contributors who made the contributions delivered by lobbyist/registrant PAC X on March 20: The person's name, mailing address, occupation, employer, and date of receipt by lobbyist/registrant PAC X, itemizing the contributions as necessary under 104.8.

2. On the leadership PAC's campaign finance report covering March, it must:

a. Pursuant to 11 CFR 104.3 and 104.8, report for each of the six contributions that make up the $12,000 that the leadership PAC received directly from contributors and credited to lobbyist/registrant PAC X: The person's name, mailing address, occupation, employer, and the date of receipt by lobbyist/registrant PAC X itemizing the contributions as necessary under 11 CFR 104.8.

b. Pursuant to proposed 11 CFR 104.22, include a separate form disclosing lobbyist/registrant PAC X's name and address, and, the total amount of bundled contributions that lobbyist/registrant PAC X provided to the leadership PAC during the first calendar quarter. This form would be required because the aggregate amount of bundled contributions provided by lobbyist/registrant PAC X exceeds $15,000 during the unauthorized committee's covered period of January 1 through March 31.

The Commission requests comments on these hypotheticals.

E. Recordkeeping

Current Commission regulations implement certain statutory recordkeeping requirements that also apply to certain bundled contributions. For example, committees must keep a record and account of each contribution exceeding $50 for three years after filing the report to which the record or account relates. *See* 2 U.S.C. 432(c)(2) and (d); 11 CFR 102.9(a) and (c). In addition, any person who receives and forwards contributions to any political committee must also forward certain information about the original contributor. *See* 2 U.S.C. 432(c) and 434a(a)(8); 11 CFR 102.8(c). Any authorized committee that receives contributions forwarded by a ''conduit'' is subject to additional recordkeeping and reporting requirements. *See* 2 U.S.C. 434a(a)(8); 11 CFR 110.6(c).

Therefore, the Commission proposes new 11 CFR 104.22(e), which refers to the existing recordkeeping requirements in Commission regulations and also requires reporting committees to maintain for three years records of information about any lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising, two or more bundled contributions aggregating in excess of $15,000 during any covered period. These records would include the name and address of the lobbyist/registrant or lobbyist/registrant PAC, the employer of the lobbyist/registrant (if an individual), the dates contributions are received and forwarded, and the aggregate amount of contributions bundled for each covered period.

The Commission would urge reporting committees to begin keeping records of lobbyist/registrants or lobbyist/registrant PACs who forward, or are credited with raising, bundled contributions as of January 1, 2008. Any rules promulgated by the Commission will likely become effective in early 2008, making the first semi-annual reporting period cover January 1 through June 30, 2008.

The Commission requests comments on this approach.

F. Price Index Increase

New 2 U.S.C. 434(i)(3)(b) requires that the $15,000 disclosure threshold be indexed for inflation annually, using the Consumer Price Index as verified by the Secretary of Labor. The proposed rule at 11 CFR 104.22(f) would require that the $15,000 disclosure threshold be indexed in the same manner as certain contribution limits under the Act and Commission regulations. *See* 2 U.S.C. 441a(c) and 11 CFR 110.17. The Commission proposes regulatory language that is identical to that already in portions of 11 CFR 110.17, but proposes placing the new requirement

[8] The same hypothetical applies to a political party committee.

in new 11 CFR 104.22 rather than in 11 CFR 110.17 because the dollar amount in this instance is merely a threshold for disclosure rather than a contribution limit covered under 11 CFR Part 110. The Commission requests comments on this approach.

The Commission also requests comments on the timing of the application of the indexing for inflation requirement. New 2 U.S.C. 434(i) provides that the indexing requirement ''shall apply'' to the reporting threshold ''[i]n any calendar year after 2007.'' 2 U.S.C. 434i(3)(B). The new law also provides, however, that 2 U.S.C. 434(i) will go into effect ''with respect to reports filed * * * after the expiration of the 3-month period which begins on the date that the regulations required to be promulgated [under new 2 U.S.C. 434(i)] become final.'' The Commission expects that these proposed rules will become final in early 2008, and that the new disclosure requirements will apply to reports filed three months later. Thus, the first semi-annual reporting period would be January 1 through June 30, 2008, and the first quarterly reporting period would be April through June, 2008.

Given that 2008 is a ''calendar year after 2007,'' should the reporting threshold be indexed in 2008? If so, then the effective reporting threshold would never be $15,000; rather, it would be $15,000 in 2006 (the base period) dollars, as indexed for inflation in 2008. The Commission requests comments on this interpretation of the new law, which is not included in the proposed rule.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these proposals, which apply only to Federal candidates and their campaign committees, political committees established, financed, maintained or controlled by Federal candidates or individuals holding Federal office, and political committees of political parties. Authorized committees of Federal candidates would not be considered small entities under the definition at 5 U.S.C. 601(6). Leadership PACs established, financed, maintained or controlled by Federal candidates or individuals holding Federal office also would not qualify as small entities. Such committees, while established by an individual, are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals; rather, they rely on contributions from a variety of persons to fund the committee's activities. Political committees representing the Democratic and Republican parties have a major controlling influence within the political arena and are thus dominant in their field. However, to the extent that any party committees representing major or minor political parties or any other political committees might be considered ''small organizations,'' the number that would be affected by this rule is not substantial.

The proposed rules also would not impose any additional restrictions. Instead, the proposed rules would only require disclosure of further information already held by the political committees affected. Therefore, the proposed rules would not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, political committees and parties, reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend Subchapter A of Chapter 1 of Title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for part 100 is revised to read as follows:

Authority: 2 U.S.C. 431, 434, and 438(a)(8), and 439a(c).

2. Section 100.5 is amended by adding a new paragraph (e)(7) to read as follows:

§ 100.5 Political committee (2 U.S.C. 431(4), (5), (6)).

* * * * *

(e) * * *

(7) *Lobbyist/Registrant PAC* means any political committee established or controlled by a ''lobbyist/registrant,'' as that term is defined at 11 CFR 104.22(a)(3).

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (2 U.S.C. 434)

3. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8) and (b), 439a, 441a, and 36 U.S.C. 510.

4. Section 104.22 is added to read as follows:

§ 104.22 Disclosure of bundling by Lobbyist/Registrants (2 U.S.C. 434(i)).

(a) *Definitions—Reporting committee* means:

(i) An authorized committee of a Federal candidate as defined at 11 CFR 100.5(f)(1);

(ii) A leadership PAC as defined at 11 CFR 100.5(e)(6); or

(iii) A party committee as defined at 11 CFR 100.5(e)(4).

[Proposed Definition of Covered Period]

(2) *Covered period* means:

(i) In any calendar year the semi-annual periods of January 1 through June 30 and July 1 through December 31; and

(ii) In any calendar year in which a reporting committee is required to file or files monthly or quarterly reports pursuant to 11 CFR 104.5, the quarterly periods of January 1 through March 31 and July 1 through September 30 if, during those periods a lobbyist/registrant or lobbyist/registrant PAC provided two or more bundled contributions to the reporting committee which aggregate in excess of $15,000.

[Alternative Definition of Covered Period]

(2) *Covered period* means:

(i) In any calendar year in which a reporting committee is required to file or files on a quarterly basis pursuant to 11 CFR 104.5, the quarterly periods of January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31; and

(ii) In any calendar year in which a reporting committee files semi-annual reports pursuant to 11 CFR 104.5, the semi-annual periods of January 1 through June 30 and July 1 through December 31.

(3) *Lobbyist/Registrant.* For purposes of this section, lobbyist/registrant means a person who, at the time a contribution is forwarded to, or is received by, a reporting committee, is:

(i) A current registrant under Section 4(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a)); or

(ii) An individual who is named on a current registration or current report filed under Section 4(b)(6) or 5(b)(2)(C) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(b)(6) or 1604(b)(2)(C)).

(4) *Bundled contribution* means any contribution:

(i) Forwarded from the contributor or contributors to the reporting committee

by a lobbyist/registrant or lobbyist/registrant PAC ; or

(ii) Received by the reporting committee from the contributor or contributors, and that is credited by the committee, individual holding a Federal office or candidate involved to a lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC , except that

(iii) Bundled contributions do not include contributions from the personal funds of the lobbyist/registrant who forwards or is credited with raising the contributions or that person's spouse.

(5) *The committee or candidate involved* means: The reporting committee; the candidate by whom the authorized committee is authorized; or the candidate or individual holding Federal office who directly or indirectly established, finances, maintains or controls the leadership PAC.

(6) A designation or other means of recognizing bundled contributions includes titles based on levels of fundraising, access to reporting committee events reserved exclusively for those who generate a certain level of contributions, and events provided by a reporting committee as a reward for successful fundraising.

(b) *Reporting requirement*.

(1) Each reporting committee must file a form listing each person reasonably known by the committee to be a lobbyist/registrant or lobbyist/registrant PAC that provides two or more bundled contributions (*see* 11 CFR 104.22(a)(4)) to the reporting committee aggregating in excess of $15,000 during the covered period. Each form shall set forth:

(i) The name of the lobbyist/registrant or lobbyist/registrant PAC;

(ii) The address of the lobbyist/registrant or lobbyist/registrant PAC;

(iii) The employer of the lobbyist/registrant; and

(iv) The aggregate amount of bundled contributions provided by the lobbyist/registrant or lobbyist/registrant PAC to the reporting committee during the covered period.

(2) In order to comply with paragraph (b)(1) of this section, a reporting committee must consult the Web sites maintained by the Clerk of the House of Representatives, the Secretary of the Senate, and the Federal Election Commission to determine whether, at the time a contribution was forwarded to, or received by, the reporting committee:

(i) The person was listed as a current registrant under Section 4(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a)), or

(ii) The person was an individual listed on a current registration filed under Section 4(b)(6) or a current report filed under Section 5(b)(2)(C) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603 or 1604); or

(iii) The person identified itself as a lobbyist/registrant PAC on its Statement of Organization, FEC Form 1, filed with the Commission; or

(iv) The person was listed as a political committee established or controlled by a lobbyist or registrant on a report filed under Sec. 203 (a) of the Honest Leadership and Open Government Act of 2007, amending the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604).

(c) *Where to file*. Reporting committees shall file either with the Secretary of the Senate or with the Federal Election Commission in accordance with 11 CFR Part 105.

(d) *When to file*. Reporting committees must file the forms required under this section with the first report required under 11 CFR 104.5 following the end of each covered period.

(e) *Recordkeeping*. In addition to any requirements to maintain records and accounts under 11 CFR 102.8, 102.9 and 110.6, each reporting committee must maintain for three years after the filing of the report to which the information relates a record of any bundled contributions (*see* 11 CFR 104.22(a)(4)) provided by a lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of $15,000 for any covered period. The information required to be maintained is:

(1) The name and address of the lobbyist/registrant or lobbyist/registrant PAC;

(2) The employer of the lobbyist/registrant; and

(3) The amount of bundled contributions provided by the lobbyist/registrant or lobbyist/registrant PAC for each covered period.

(f) *Price index increase*.

(1) The threshold for reporting bundled contributions established in paragraph (d)(1) of this section shall be increased by the percent difference between the price index as defined at 11 CFR 110.17(d), as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index base period.

(2) Each bundling threshold so increased shall be the threshold in effect for that calendar year.

(3) For purposes of this paragraph (e), the term base period means calendar year 2006.

(4) Rounding of price index increases. If any amount after the increases under this paragraph (e) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

Dated: October 30, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405, and 416

[Docket No. SSA–2007–0053]

Compassionate Allowances for Rare Diseases; Office of the Commissioner, Hearing

AGENCY: Social Security Administration (SSA).

ACTION: Advance Notice of Proposed Rulemaking; Announcement of Public Hearing and Limited Reopening of Comment Period.

SUMMARY: We are considering ways to quickly identify diseases and other serious medical conditions that obviously meet the definition of disability under the Social Security Act (the Act) and can be identified with minimal objective medical information. At present, we are calling this method ''Compassionate Allowances.'' We plan to hold four public hearings over the next year. The purpose of this first hearing is to obtain your views about the advisability and possible methods of identifying and implementing compassionate allowances for children and adults with rare diseases. We will address other kinds of medical conditions in later hearings.

DATES: Dates and location: We must receive written comments by December 21, 2007. Comments made at the hearings will be considered in preparation of a final rule. The first hearing will be held on December 4 and December 5, 2007, between 8:45 a.m. and 5:30 p.m. Eastern Standard Time (EST), in Washington, DC. The hearings will be held at 500 E Street, SW., Washington, DC 20436, in the main hearing room of the International Trade Commission. Space limitations and time constraints require hearing attendance to be by invitation only. However, you may listen to the proceedings by calling 1–888–456–0278, at 9 a.m., EST, the mornings of December 4 and 5. If you plan to listen in, please send an e-mail to *Compassionate.Allowances@ssa.gov* by November 21, 2007. Your e-mail will help ensure that we have enough

telephone lines for everyone interested in listening to the proceedings.

ADDRESSES: You may submit up to two pages of written comments about the compassionate allowances initiative with respect to children and adults with rare diseases, as well as topics covered at the hearing by: (1) Internet through the Federal eRulemaking Portal at *http://www.regulations.gov* (2) e-mail addressed to *Compassionate.Allowances@ssa.gov* or (3) mail to Diane Braunstein, Director, Office of Compassionate Allowances and Listings Improvement, ODP, ODISP, Social Security Administration, 4535 Annex, 6401 Security Boulevard, Baltimore, MD 21235–6401.

FOR FURTHER INFORMATION CONTACT: Compassionate.Allowances@ssa.gov. You may also mail inquiries about this meeting to Diane Braunstein, Director, Office of Compassionate Allowances and Listings Improvement, ODP, ODISP, Social Security Administration, 4535 Annex, 6401 Security Boulevard, Baltimore, MD 21235–6401. 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:

Background

Under titles II and XVI of the Act, we pay benefits to individuals who meet our rules for entitlement and have medically determinable physical or mental impairments that are severe enough to meet the definition of disability in the Act. The rules for determining disability can be very complicated, but some individuals have such serious medical conditions that their conditions obviously meet our disability standards. To better address the needs of these individuals, we are looking into ways to allow benefits as quickly as possible.

On July 31, 2007, we published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** to solicit the public's views on what standards we should use for making compassionate allowances, methods we might use to identify compassionate allowances and suggestions for how to implement those standards and methods. (See 72 FR 41649.) You may read the ANPRM at *http://www.gpoaccess.gov/fr/index.html*, or at *http://www.regulations.gov* where you may also read the public comments we received. The 60-day comment period on the overall compassionate allowances initiative ended on October 1, 2007. This notice constitutes a limited reopening of the comment period with respect to children and adults with rare diseases, as well as topics covered at the hearing on December 4 and 5, 2007.

Will We Respond to Your Comments?

We will carefully consider your comments, although we will not respond directly to comments sent in response to this notice or the hearing. Thereafter, we will decide whether to implement the compassionate allowances initiative and, if so, how the initiative will be implemented. If we decide to issue regulations addressing compassionate allowances, we will publish a notice of proposed rulemaking (NPRM) in the **Federal Register**. In accordance with the usual rulemaking procedures we follow, you will have a chance to comment on the revisions we propose in the NPRM, and we will summarize and respond to the significant comments in the preamble to any final rules.

Additional Hearings

We plan to hold additional hearings on cancers, chronic conditions, and traumatic injuries, and will announce those hearings later with notices in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.006, Supplemental Security Income.)

Dated: October 31, 2007.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E7–21828 Filed 11–5–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–143397–05]

RIN 1545–BE99

Partner's Distributive Share; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed regulations.

SUMMARY: This document contains corrections to the notice of proposed regulations (REG–143397–05) that was published in the **Federal Register** on Wednesday, August 22, 2007 (72 FR 46932) concerning the application of sections 704(c)(1)(B) and 737 to distributions of property after two partnerships engage in an assets-over merger. The proposed regulations affect partnerships and their partners.

FOR FURTHER INFORMATION CONTACT: Jason Smyczek or Laura Fields at (202) 622–3050 (not toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–143397–05) that is the subject of these corrections is under sections 704(c) and 737 of the Internal Revenue Code.

Need for Correction

As published, this notice of proposed rulemaking (REG–143397–05) contains errors that may prove to be misleading and are in need of clarification.

Correction for Publication

Accordingly, the notice of proposed rulemaking (REG–143397–05) that was the subject of FR Doc. E7–16189 is corrected as follows:

1. On page 46932, column 1, the heading, the subject ''Partner's Distributive Share'' is corrected to read ''Rules for Contribution and Subsequent Distribution of Section 704(c) Property in Connection with Partnership Mergers''.

2. On page 46932, column 3, in the preamble under the paragraph heading **Background**, first full paragraph in the column, line 6, the language ''described in § 1.708–1(c)(3). Rev. Rul.'' is corrected to read ''described in § 1.708–1(c)(3)(i). Rev. Rul.''.

3. On page 46933, column 3, in the preamble under the paragraph heading ''A. Assets-Over Partnership Mergers'', first full paragraph in the column, line 2, the language ''3(c)(4)(iii) provide that taxpayers may'' is corrected to read ''3(a)(9) provide that taxpayers may''.

§ 1.704–3 [Corrected]

4. On page 46934, column 2, § 1.704–3(a)(9), line 6, the language ''§ 1.708–1(c)(3) (the transferor'' is corrected to read ''§ 1.708–1(c)(3)(i) (the transferor''.

§ 1.704–4 [Corrected]

5. On page 46935, column 1, § 1.704–4(c)(4), line 3 from the top of the column, the language ''§ 1.708–1(c)(3) by a partnership (the'' is corrected to read ''§ 1.708–1(c)(3)(i) by a partnership (the''.

6. On page 46935, column 2, § 1.704–4(c)(4)(ii)(B), second line from the bottom of the paragraph is corrected to read ''See § 1.737–2(b)(1)(ii)(B) for a similar rule in''.

7. On page 46935, column 3, § 1.704–4(c)(4)(ii)(E) is corrected by adding a

sentence at the end of the paragraph to read as follows:

§ 1.704–4 Distribution of contributed property.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(E) * * * See § 1.737–2(b)(1)(ii)(E) for a similar rule in the context of section 737.

* * * * *

8. On page 46936, column 1, § 1.704–4(c)(4)(ii)(F), Example (2)(i), line 7 from the bottom of the paragraph, the language ''fair market value of $400x, and $450x in'' is corrected to read ''fair market value of $400x, and $400x in''.

9. On page 46936, column 1, § 1.704–4(c)(4)(ii)(F), Example (2)(i), lines 3 and 4 from the bottom of the paragraph, the language ''PRS1 as follows: A, 25%; B, 25%; C, 16.67%; D, 16.67% and E, 16.67%. On January 1,'' is corrected to read ''PRS1 as follows: A, 25.76 percent; B, 25.76 percent; C, 16.16 percent; D, 16.16 percent; and E, 16.16 percent. On January 1,''.

10. On page 46936, column 2, § 1.704–4(c)(4)(ii)(F), Example (2)(ii), first line of the column, the language ''as a result of the merger. C also has $100 of'' is corrected to read ''as a result of the merger. C also has $100x of''.

11. On page 46936, column 2, § 1.704–4(c)(4)(ii)(F), Example (3)(i), lines 3 and 4 from the bottom of the paragraph, the language ''loss interests in PRS1 as follows: A, 27.5%; B, 27.5%; C, 15%; D, 15% and E, 15%. On'' is corrected to read ''loss interests in PRS1 as follows: A, 27.5 percent; B, 27.5 percent; C, 15 percent; D, 15 percent; and E, 15 percent. On''.

12. On page 46936, column 2, § 1.704–4(c)(4)(ii)(F), Example (3)(i), last line of the paragraph, the language ''when its value is still $600.'' is corrected to read ''when its value is still $600x.''

13. On page 46936, column 2, § 1.704–4(c)(4)(ii)(F), Example (3)(ii), line 8, the language ''($600x (fair market value)—100x (adjusted'' is corrected to read ''($600x (fair market value)—$100x (adjusted''.

14. On page 46936, column 2, § 1.704–4(c)(4)(ii)(F), Example (3)(ii), line 5 from the bottom of the paragraph, the language ''E each succeed to $150 of new section 704(c)'' is corrected to read ''E each succeed to $150x of new section 704(c)''.

15. On page 46936, column 2, § 1.704–4 paragraph (c)(4)(ii)(F), Example (3)(ii), last line of the paragraph, the language ''recognize $150 of gain.'' is corrected to read ''recognize $150x of gain.''.

16. On page 46936, column 3, § 1.704–4(c)(4)(ii)(F), Example (5)(i), line 5 from the bottom of the paragraph, the language ''of the partnerships, A contributed the Asset'' is corrected to read ''of the partnerships, A contributed Asset''.

17. On page 46936, column 3, § 1.704–4(c)(4)(ii)(F), Example (5)(ii), last line of the paragraph, the language ''distributes all of Asset X to A.'' is corrected to read ''distributes Asset X to A.''.

§ 1.737–2 [Corrected]

18. On page 46937, column 1, item 2 in instructional Par. 5. is corrected, and item 3 is added to read as follows:

Par. 5. Section 1.737–2 is amended as follows:

1. * * *

2. Paragraph (e) is redesignated as paragraph (f).

3. New paragraph (e) is added.

The addition and revision read as follows:

§ 1.737–2 Exceptions and special rules.

* * * * *

(e) *Reverse section 704(c) gain.* * * *

19. On page 46938, column 3, § 1.737–2(b)(1)(ii)(F), Example (5)(ii), line 2 from the bottom of the paragraph, the language ''liabilities. In 2006, PRS2 distributes all of'' is corrected to read ''liabilities. In 2006, PRS2 distributes''.

Cynthia Grigsby,

Senior Federal Register Liaison Officer, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7–21820 Filed 11–5–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. COTP St. Petersburg 07–046]

RIN 1625–AA87

Security Zone; Tampa Bay, Port of Tampa, Port of St. Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise certain security zones within the Captain of the Port Sector St. Petersburg Zone (formerly the Captain of the Port Tampa Zone). The purpose of these revisions is to ensure the security of vessels, facilities, and the surrounding areas within these zones. Entry into the area encompassed by these revised security zones would be prohibited without permission of the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before December 6, 2007.

ADDRESSES: You may mail comments and related material to Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL 33606–3598. Coast Guard Sector St. Petersburg, Prevention Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL 33606–3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jessica Crandell at the Waterways Management Division, Sector St. Petersburg, FL (813) 228–2191 Ext 8146.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please identify the docket number for this rulemaking (COTP Sector St. Petersburg 07–046), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. For example, we may ask you to resubmit your comment if we are not able to read your original submission. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Waterways Management Division at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Maritime Transportation Security Act authorized the establishment of Area Maritime Security Committees (AMSC) that ''advise, consult with, report to, and make recommendations'' on matters relating to maritime security in an AMSC's port area. See 46 U.S.C. 70112(a)(2) and 33 CFR 103.205. One topic the Tampa AMSC discussed is the existing security zones established soon after the terrorist attacks of September 11, 2001. See 68 FR 47852, August 12, 2003, and 68 FR 52340, September 3, 2003.

These existing security zones were established in 2003 and codified in 33 CFR 165.760 and 165.764 by the Captain of the Port Tampa. As noted in the notice of proposed rulemakings for these two final rules, there were a number of temporary security zone rules issued before these two final rules. See 68 FR 7093, February 12, 2003 and 68 FR 19166, April 18, 2003.

Some of the security zones in §§ 165.760 and 165.764 were suspended from July 26, 2007 until January 1, 2008, and revised, temporary security zones were made effective during this same period. See 72 FR 45162, August 13, 2007. These temporary changes were made based on the newly-developed Maritime Security Risk Analysis tool utilized by the AMSC.

A Tampa AMSC working group evaluated risk to the maritime transportation system (MTS) within Tampa Bay, and assessed various risk mitigation options. The results of the risk assessment indicated the need to revise the following established security zones for the purpose of enhancing port security for the region:

- § 165.760(a)(1), Rattlesnake, Tampa, FL;
- § 165.760(a)(3), Sunshine Skyway Bridge, Tampa, FL;
- § 165.760(a)(5), Piers, Seawalls, and Facilities, Port of Tampa, Port Sutton and East Bay;
- § 165.760(a)(7), Piers, Seawalls, and Facilities, Port of Tampa, on the western side of Hooker's Point;
- § 165.764(a)(1), Big Bend, Tampa Bay, Florida zone.

The five revised zones temporarily replacing these five suspended zones appear in § 165.T07–047(a) (1) through (5), but will expire January 2, 2008. The risk assessment also indicated that two of the zones suspended—§ 165.760(a)(6) [Piers, seawalls, and facilities, Port of Tampa, East Bay and the eastern side of Hooker's Point], and (a)(8) [Piers, seawalls, and facilities, Port of Manatee]—were no longer needed.

The security zones proposed in this notice have been discussed, vetted and recommended by representatives of the Department of Homeland Security's Office of Infrastructure Protection, the Western Florida Area Maritime Security Committee, the Florida Region IV and VI Regional Domestic Security Task Forces, and numerous local agencies who share in the maritime security mission in the Tampa Bay region. These proposed revisions are needed to ensure the security of vessels, facilities, and the surrounding areas within the Captain of the Port Sector St. Petersburg Zone following the expiration of the currently-effective temporary final rule, 72 FR 45162, August 13, 2007.

In 2005, Sector St. Petersburg was created, replacing the Captain of the Port Tampa Zone. Authority to create security zones in the Tampa Bay region now resides with the Sector St. Petersburg Captain of the Port. See 70 FR 41415, July 19, 2005, and 72 FR 36316, July 2, 2007.

Discussion of Proposed Rule

The security zones described in this notice have been discussed, vetted and recommended by representatives of the Department of Homeland Security's Office of Infrastructure Protection, the Western Florida Area Maritime Security Committee, the Florida Region IV and VI Regional Domestic Security Task Forces, and numerous local agencies who share in the maritime security mission in the Tampa Bay region.

The following areas are proposed to be established as permanent security zones in 33 CFR 165.760 by revising or adding the following paragraphs in that section. All coordinates were fixed using the North American Datum of 1983.

- Revise § 165.760(a)(3), Sunshine Skyway Bridge, Tampa, FL. All waters in Tampa Bay, from surface to bottom, in Cut ''A'' channel beneath the bridge's main span encompassed by a line connecting the following points: 27°37.30′ N, 082°39.38′ W to 27°37.13′ N, 082°39.26′ W; and, the bridge structure columns, base and dolphins. This zone is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span.
- Revise § 760(a)(5), Piers, Seawalls, and Facilities, Port of Tampa, Port Sutton and East Bay. All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15′ N, 082°26.11′ W; east northeast to 27°54.19′ N, 082°26.00′ W; then northeast to 27°54.37′ N, 082°25.72′ W, closing off all Port Sutton channel; then northerly to 27°54.48′ N, 082°25.70′ W.
- Revise § 165.760(a)(7), Piers, Seawalls, and Facilities, Port of Tampa, on the western side of Hooker's Point. All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities on Hillsborough Bay northern portion of Cut ''D'' channel, Sparkman channel, Ybor Turning Basin, and Ybor channel within the Port of Tampa encompassed by a line connecting the following points: 27°54.74′ N, 082°26.47′ W; northwest to 27°55.25′ N, 082°26.73′ W; then north-northwest to 27°55.60′ N, 082°26.80′ W; then north-northeast to 27°56.00′ N, 082°26.75′ W; then northeast to 27°56.58′ N, 082°26.53′ W; and north to 27°57.29′ N, 082°26.51′ W; west to 27°57.29′ N, 082°26.61′ W; then southerly to 27°56.65′ N, 082°26.63′ W; southwesterly to 27°56.58′ N, 082°26.69′ W; then southwesterly and terminating at 27°56.53′ N, 082°26.90′ W.
- Remove § 165.764(a)(1) and add § 165.764(a)(14), Big Bend Power Plant, FL. All waters of Tampa Bay, from surface to bottom, adjacent to the Big Bend Power Facility, and within an area bounded by a line connecting the following points: 27°48.08′ N, 082°24.88′ W; then northwest to 27°48.15′ N, 082°24.96′ W; then southwest to 27°48.10′ N, 082°25.00′ W; then south-southwest to 27°47.85′ N, 082°25.03′ W; then southeast to 27°47.85′ N, 082°24.79′ W; then east to 27°47.55′ N, 082°24.04′ W; then north to 27°47.62′ N, 082°84.04′ W; then west to 27°47.60′ N, 082°24.72′ W; then north to 27°48.03′ N, 082°24.70′ W; then northwest to 27°48.08′ N, 082°24.88′ W, closing off entrance to Big Bend Power Facility and the attached cooling canal.
- Remove § 165.764(a)(2), revised its heading but add its text unchanged to a new § 165.764(a)(15), Weedon Island Power Plant, FL. All waters of Tampa Bay, from surface to bottom, extending 50-yards from the shore, seawall and piers around the Power Facility at Weedon Island encompassed by a line connecting the following points: 27°51.52′ N, 082°35.82′ W; then north

and east along the shore to 27°51.54′ N, 082°35.78′ W; then north to 27°51.68′ N, 082°35.78′ W; then north to 27°51.75′ N, 082°35.78′ W, closing off entrance to the canal; then north to 27°51.89′ N, 082°35.82′ W; then west along the shore to 27°51.89′ N, 082°36.10′ W; then west to 27°51.89′ N, 082°36.14′ W, closing off entrance to the canal.

• Revise § 165.760(a)(1), Rattlesnake Tampa, FL. All water, from surface to bottom, in Old Tampa Bay east and south of a line commencing at position 27°53.32′ N, 082°32.05′ W; north to 27°53.36′ N, 082°32.05′ W, including on land portions of Chemical Formulators Chlorine Facility, where the fenced area is bounded by a line connecting the following points: 27°53.21′ N, 082°32.11′ W; west to 27°53.22′ N, 082°32.23′ W; then north to 27°53.25′ N, 082°32.23′ W; then west again to 27°53.25′ N, 082°32.27′ W; then north again to 27°53.29′ N, 082°32.25′ W; then east to 27°53.30′ N, 082°32.16′ W; then southeast terminating at 27°53.21′ N, 082°32.11′ W.

Please note that the portion of the description of § 165.760(a)(1) after the word ''including'' differs from the currently effective temporary § 165.T07–047(a)(1). We determined that the ''fenced area'' should be more clearly defined in the permanent regulation and propose replacing the following description ''including the fenced area encompassing the Chemical Formulator Chlorine Facility'' in TFR 72 FR 45162–01 with a more accurate North American Datum Description. The new description is: ''including on land portions of Chemical Formulators Chlorine Facility where the fenced area is bounded by a line connecting the following points: 27°53.21′ N, 082°32.11′ W; west to 27°53.22′ N, 082°32.23′ W; then north to 27°53.25′ N, 082°32.23′ W; then west again to 27°53.25′ N, 082°32.27′ W; then north again to 27°53.29′ N, 082°32.25′ W; then east to 27°53.30′ N, 082°32.16′ W; then southeast terminating at 27°53.21′ N, 082°32.11′ W.''

Entry into or remaining on or within these proposed revised zones would be prohibited unless authorized by the Captain of the Port Sector St. Petersburg or his designated representative. Persons desiring to transit the area of the security zone may contact the Captain of the Port Sector St. Petersburg or his designated representative on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative. In the case of moving security zones, notification will be given by Broadcast Notice to Mariners on VHF FM Marine Band Radio, Channel 22A. For vessels not equipped with a radio, there will also be on site notification via a designated representative of the Captain of the Port. A graphical representation of all fixed security zones will be made available via the World Wide Web: *http://homeport.uscg.mil/mycg/portal/ep/portDirectory.do?tabId=1&cotpId=50,* Coast Pilot and nautical charts.

Because we proposed to move the only two security zones in § 165.764 to § 165.760, we propose to remove and reserve § 165.764.

We also proposed to reverse the order of the regulations and definitions paragraphs in § 165.760 by having the definitions appear first. We proposed to add a definition *designated representative* to the revised paragraph (b).

In revised paragraph (c) we have replaced references to the Captain of the Port Tampa with references to Captain of the Port Sector St. Petersburg and made references to using Broadcast Notice to Mariners to announce the activation of moving security zones by cruise ships entering certain waters—see § 165.760(a)(9).

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This proposed rule may have some impact on the public, but these potential impacts will be minimized for the following reasons: There is ample room for vessels to navigate around security zones, and there are several locations for recreational and commercial fishing vessels to fish throughout the Tampa Bay Region. Also, the Captain of the Port may, on a case-by-case basis allow persons or vessels to enter a security zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities because the majority of the zones are limited in size, leaving ample room for vessels to navigate around the zones. The zones will not significantly impact commuter and passenger vessel traffic patterns, and mariners will be notified of the zones via local notice to mariners and marine broadcasts. Also, the Captain of the Port may, on a case-by-case basis, allow persons or vessels to enter a security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed under **FOR FURTHER INFORMATION CONTACT**, for assistance in understanding this rule. 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 proposed rule would call 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Words of Issuance and Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 165.760, revise paragraphs (a)(1), (a)(3), (a)(5), (a)(7), (b) and (c), and add paragraphs (a)(14) and (a)(15) to read as follows:

§ 165.760 Security Zones; Tampa Bay, Port of Tampa, Port of Saint Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River; Florida.

(a) * * *

(1) *Rattlesnake, Tampa, FL.* All water, from surface to bottom, in Old Tampa Bay east and south of a line commencing at position 27°53.32′ N, 082°32.05′ W; north to 27°53.36′ N, 082°32.05′ W, including on land portions of Chemical Formulators Chlorine Facility, where, the fenced area is bounded by a line connecting the following points: 27°53.21′ N, 082°32.11′ W; west to 27°53.22′ N, 082°32.23′ W; then north to 27°53.25′ N, 082°32.23′ W; then west again to 27°53.25′ N, 082°32.27′ W; then north again to 27°53.29′ N, 082°32.25′ W; then east to 27°53.30′ N, 082°32.16′ W; then southeast terminating at 27°53.21′ N, 082°32.11′ W.

* * * * *

(3) *Sunshine Skyway Bridge, FL.* All waters in Tampa Bay, from surface to bottom, in Cut ''A'' channel beneath the bridge's main span encompassed by a line connecting the following points: 27°37.30′ N, 082°39.38′ W to 27°37.13′ N, 082°39.26′ W; and, the bridge structure columns, base and dolphins. This zone is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span.

* * * * *

(5) *Piers, seawalls, and facilities, Port of Tampa and Port Sutton, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15′ N, 082°26.11′ W; east northeast to 27°54.19′ N, 082°26.00′ W; then northeast to 27°54.37′ N, 082°25.72′ W, closing off all Port Sutton channel; then northerly to 27°54.48′ N, 082°25.70′ W.

* * * * *

(7) *Piers, seawalls, and facilities, Port of Tampa, on the western side of Hooker's Point, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities on Hillsborough Bay northern portion of Cut ''D'' channel, Sparkman channel, Ybor Turning Basin, and Ybor channel within the Port of

Tampa encompassed by a line connecting the following points: 27°54.74′ N, 082°26.47′ W; northwest to 27°55.25′ N, 082°26.73′ W; then north-northwest to 27°55.60′ N, 082°26.80′ W; then north-northeast to 27°56.00′ N, 082°26.75′ W; then northeast to 27°56.58′ N, 082°26.53′ W; and north to 27°57.29′ N, 082°26.51′ W; west to 27°57.29′ N, 082°26.61′ W; then southerly to 27°56.65′ N, 082°26.63′ W; southwesterly to 27°56.58′ N, 082°26.69′ W; then southwesterly and terminating at 27°56.53′ N, 082°26.90′ W.

* * * * *

(14) *Big Bend Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, adjacent to the Big Bend Power Facility, and within an area bounded by a line connecting the following points: 27°48′08″ N, 082°24′88″ W; then northwest to 27°48′15″ N, 082°24′96″ W; then southwest to 27°48′10″ N, 082°25′00″ W; then south-southwest to 27°47′85″ N, 082°25′03″ W; then southeast to 27°47′85″ N, 082°24′79″ W; then east to 27°47′55″ N, 082°24′04″ W; then north to 27°47′62″ N, 082°84′04″ W; then west to 27°47′60″ N, 082°24′72″ W; then north to 27°48′03″ N, 082°24′70″ W; then northwest to 27°48′08″ N, 082°24′88″ W, closing off entrance to Big Bend Power Facility and the attached cooling canal.

(15) *Weedon Island Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, extending 50-yards from the shore, seawall and piers around the Power Facility at Weedon Island encompassed by a line connecting the following points: 27°51′52″ N, 082°35′82″ W; then north and east along the shore to 27°51′54″ N, 082°35′78″ W; then north to 27°51′68″ N, 082°35′78″ W; then north to 27°51′75″ N, 082°35′78″ W, closing off entrance to the canal; then north to 27°51′89″ N, 082°35′82″ W; then west along the shore to 27°51′89″ N, 082°36′10″ W; then west to 27°51′89″ N, 082°36′14″ W, closing off entrance to the canal.

(b) *Definitions.* As used in this section—

Cruise ship means a vessel required to comply with 33 CFR part 120.

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulation.* (1) Entry into or remaining on or within the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port St. Petersburg or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port St. Petersburg or his designated representative on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative. In the case of moving security zones, notification of activation of these zones will be given by Broadcast Notice to Mariners on VHF FM Marine Band Radio, Channel 22A. For vessels not equipped with a radio, there will also be on site notification via a designated representative of the Captain of the Port.

Note to § 165.760 (c)(2): A graphical representation of all fixed security zones will be made available via the Coast Pilot and nautical charts.

(3) *Enforcement.* Under § 165.33, no person may cause or authorize the operation of a vessel in the security zones contrary to the provisions of this section.

* * * * *

§ 165.764 [Removed]

3. Remove and reserve § 165.764.

Dated: October 29, 2007.

J.A. Servidio,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. E7–21760 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. COTP St. Petersburg 07–226]

RIN 1625–AA87

Security Zone; Manbirtee Key, Port of Manatee, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The Coast Guard proposes to establish a new security zone in the Manbirtee Key area of Port of Manatee, Florida. The purpose of this security zone is to ensure the security of vessels, facilities, and the surrounding area. Entry into the security zone would be prohibited without permission of the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before December 6, 2007. A public meeting will be held starting at 10 a.m. on November 13, 2007.

ADDRESSES: You may mail comments and related material to Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL. 33606–3598. Coast Guard Sector St. Petersburg, Prevention Department maintains the public docket for this rule making. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL. 33606–3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The location of the public meeting is Port Manatee, 300 Tampa Bay Way, Palmetto, FL 34221.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jessica Crandell at the Waterways Management Division, Sector St. Petersburg, FL (813) 228–2191 Ext 8146.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include the docket number for this rulemaking (COTP 07–226), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. For example, we may ask you to resubmit your comment if we are not able to read your original submission. Please submit all comments and related material in an unbound format, no larger than 81/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We will hold a public meeting to discuss any items of concern related to the proposed changes to the security zone outlined in this document. The date and time of this meeting is 10 a.m., November 13, 2007. The location of the

meeting is Port Manatee, 300 Tampa Bay Way, Palmetto, FL 34221.

Background and Purpose

The Maritime Transportation Security Act authorized the establishment of Area Maritime Security Committees (AMSC) that ''advise, consult with, report to, and make recommendations'' on matters relating to maritime security in an AMSC's port area. See 46 U.S.C. 70112(a)(2) and 33 CFR 103.205. One topic the Tampa AMSC discussed is the existing security zones that were established immediately following the terrorist attacks of September 11, 2001. See 68 FR 47852, August 12, 2003, and 68 FR 52340, September 3, 2003.

In July 2007, using the newly-developed Maritime Security Risk Analysis tool, the Tampa AMSC working group evaluated risk to the maritime transportation system (MTS) within Tampa Bay, and assessed various risk mitigation options. The results of the risk assessment indicated the need to establish a new security zone in the vicinity of Manbirtee Key, FL. To assist in assessment of risk mitigation options in the vicinity of Manbirtee Key, FL, a focus group session was held with Coast Guard licensed mariners on July 25, 2007.

Discussion of Proposed Rule

This proposed rule would create a security zone in the following area: All waters of Tampa Bay, from surface to bottom, surrounding Manbirtee Key, Tampa Bay, FL extending 500 yards from the island's shoreline, in all directions, with the exception of the Port Manatee Channel.

Entry into or remaining on or within this zone would be prohibited unless authorized by the Captain of the Port Sector St. Petersburg or his designated representative. Persons desiring to transit the area of the security zone may contact the Captain of the Port St. Petersburg or his designee on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This proposed rule may have some impact on the public, but these potential impacts will be minimized for the following reasons: There is ample room for vessels to navigate around the security zone, and there are several locations for recreational and commercial fishing vessels to fish throughout the Tampa Bay Region. Also, the Captain of the Port may, on a case-by-case basis allow persons or vessels to enter a security zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities because the zone is limited in size, leaving ample room for vessels to navigate around the zone. The zone will not significantly impact commuter and passenger vessel traffic patterns, and mariners will be notified of the zone via local notice to mariners and marine broadcasts. Also, the Captain of the Port may, on a case-by-case basis, allow persons or vessels to enter a security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the office listed under **FOR FURTHER INFORMATION CONTACT**, for assistance in understanding this rule. 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 proposed rule would call 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.767 to read as follows:

§ 165.767 Security Zone; Manbirtee Key, Port of Manatee, Florida.

(a) *Regulated area.* The following area is a security zone: All waters of Tampa Bay, from surface to bottom, surrounding Manbirtee Key, Tampa Bay, FL, extending 500 yards from the island's shoreline, in all directions, with the exception of the Port Manatee Channel.

(b) *Definitions.* As used in this section, *designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulation.* (1) Entry into or remaining on or within the security zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port St. Petersburg or his designated representative.

(2) Persons desiring to transit the security zone may contact the Captain of the Port St. Petersburg or his designated representative on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or the designated representative.

(3) *Enforcement.* Under § 165.33, no person may cause or authorize the operation of a vessel in the security zone contrary to the provisions of this section.

Dated: October 29, 2007.

J.A. Servidio,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. E7–21761 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0622; FRL–8490–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Revised Denver PM10 Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take direct final action approving a State Implementation Plan (SIP) revision submitted by the State of Colorado. On September 25, 2006, the Governor's designee submitted a revised plan for particulate matter with an aerodynamic diameter, less than or equal to 10 microns (PM10) for the Denver metropolitan area for the PM10 National Ambient Air Quality Standard (NAAQS). This revised maintenance plan addresses maintenance of the PM10 standard for a second ten-year period beyond redesignation, extends the horizon years, and contains revised transportation conformity budgets. EPA is approving the removal of Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'' from Denver's revised PM10 maintenance plan. In addition, EPA is approving a transportation budget trading protocol for estimating the PM10 and nitrogen oxides (NOx) for each conformity determination. This action is being taken under section 110 of the Clean Air Act.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment

period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before December 6, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–0622, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: videtich.callie@epa.gov* and *fiedler.kerri@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT**, if you are faxing comments).
- *Mail:* Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Suite 300, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone (303) 312–6493, and e-mail at: *fiedler.kerri@epa.gov.*

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: October 22, 2007.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. E7–21613 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0271; FRL–8491–5]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of 8-Hour Ozone Section 110(a)(1) Maintenance Plans for the Parishes of Beauregard, Grant, and St. Mary

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Louisiana State Implementation Plan (SIP) concerning the 8-hour ozone maintenance plans for the parishes of Beauregard, Grant, and St. Mary. On August 23, 2006, the State of Louisiana submitted separate SIP revisions containing 8-hour ozone maintenance plans for Beauregard and Grant Parishes, and on October 10, 2006, Louisiana submitted an 8-hour ozone maintenance plan for St. Mary Parish. These plans ensure the continued attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. These maintenance plans meet the statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is approving the revisions pursuant to section 110 of the Federal Clean Air Act (CAA).

DATES: Written comments must be received on or before December 6, 2007.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ellen Belk, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–2164; fax number 214–665–7263; e-mail address *belk.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule, which is located in the rules section of this **Federal Register**

Dated: October 26, 2007.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E7–21688 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket No. 07–172; FCC 07–144]

Use of FM Translators by AM Stations as a Fill-in Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes rule changes that would allow AM stations to use FM translator stations to rebroadcast the AM signal locally (i.e., the service area of the FM translator station would not extend beyond a 25-mile radius from the AM transmitter site, or the daytime coverage area of the AM station, whichever is smaller) to improve the viability of the AM broadcast service and preserve localism in the service. Comments are sought on the proposal and related eligibility rules, program origination questions, technical issues and timing issues.

DATES: Comments for this proceeding are due on or before January 7, 2008. Reply comments are due on or before February 4, 2008.

Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and

other interested parties on or before January 7, 2008.

ADDRESSES: You may submit comments, identified by MB Docket No. 07–172; FCC 07–144, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- *Mail:* 445 12th Street, SW., Washington, DC 20554, with a copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Legal information: Tom Hutton, 202–418–2700; technical information: James Bradshaw, 202–418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking in MB Docket No. 07–172, FCC 07–144, adopted August 7, 2007, and released August 15, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs*). The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) (202) 418–0432 (TTY).

Summary of the Notice of Proposed Rulemaking

The Notice of Proposed Rulemaking proposes to amend the Commission's Rules to allow AM broadcast stations to license and operate FM translator stations. The rule changes would allow AM stations to operate FM translators to retransmit their AM service as a fill-in service, as long as no portion of the 60 dBu contour of the FM translator extends beyond the lesser of (a) the 2 mV/m daytime contour of the AM station, or (b) the 25-mile radius of the AM transmitter site.

The Notice of Proposed Rulemaking seeks comment on several rule changes necessary to expand the permissible service of FM translator stations to allow their use as a fill-in service for AM radio stations, including eligibility and ownership issues and appropriate technical limitations. Also, the Notice of Proposed Rulemaking proposes to modify the rules to allow daytime-only AM licensees, during the hours their AM stations are not able to operate, to originate programming on fill-in FM translators.

Notice of Proposed Rulemaking

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB), and other interested parties to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due January 7, 2008. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small burden for small business concerns with fewer than 25 employees.''

The proposed information collection requirements that the Commission seeks public comment on are as follows:

OMB Control Number: 3060–0075.

Title: Application for Transfer of Control of a Corporate Licensee or Permittee or Assignment of License or Permit for an FM or TV Translator Station or a Low Power Television Station.

Form Number: FCC Form 345.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents: 1,000.

Estimated Time per Response: 0.084–1 hour.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; third party disclosure requirement.

Total Annual Burden: 1,542 hours.

Total Annual Costs: $1,548,625.

Nature of Response: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On August 15, 2007, the Commission adopted a *Notice of Proposed Rulemaking (NPRM)*, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 07–144. The *NPRM* proposes rules that will permit AM radio stations to use FM translator stations under certain circumstances. Therefore, AM radio stations will use FCC Form 345 when applying for authority for assignment of license or for consent to transfer of control of such FM translator stations. The Commission proposes to revise the FCC Form 345 to reflect the revised changes in the rules applicable to FM translator stations. Filing of the FCC Form 345 is required when applying for authority for assignment of license or permit, or for consent to transfer of control of corporate licensee or permittee for an FM or TV translator station, or low power TV station.

OMB Control Number: 3060–0110.

Title: Application for Renewal of Broadcast Station License.

Form Number: FCC Form 303–S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions.

Number of Respondents: 3,884.

Estimated Time per Response: 0.67—11.5 hours.

Frequency of Response: Every eight year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 6,446 hours.

Total Annual Costs: $1,943,778.

Nature of Response: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On August 15, 2007, the Commission adopted a *Notice of Proposed Rulemaking (NPRM)*, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 07–144. The *NPRM* proposes rules that will permit AM radio stations to use FM translator stations under certain circumstances. FCC Form 303–S will be used in applying for renewal of license of such commercial or noncommercial FM translator stations. The Commission also proposes to revise the FCC Form 303–S to reflect the revised changes in the rules applicable to FM translator stations used by AM stations to rebroadcast their AM signals. FCC Form 303–S is used in applying for renewal of license for a commercial or noncommercial AM, FM or TV broadcast station and FM translator, TV translator or Low Power TV, and Low Power FM broadcast stations. It can also be used in seeking the joint renewal of licenses for an FM or TV translator station and its co-owned primary FM, AM, TV, or LPTV station.

OMB Control Number: 3060–0250.

Title: Sections 73.1207, 74.784, and 74.1284, Rebroadcasts.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or tribal government.

Number of Respondents: 6,462.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; semi-annual reporting requirement; Third party disclosure requirement.

Total Annual Burden: 5,506 hours.

Total Annual Costs: None.

Nature of Response: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On August 15, 2007, the Commission adopted a *Notice of Proposed Rulemaking (NPRM)*, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 07–144. The *NPRM* proposes rule changes that would allow AM stations to use FM translator stations to rebroadcast the AM signal. The *NPRM* is only proposing to amend 47 CFR 74.1284 from this information collection.

47 CFR 74.1284 requires that the licensee of an FM translator station obtain prior consent to rebroadcast programs of any broadcast station or other FM translator. The licensee of the FM translator station must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station.

OMB Control Number: 3060–0404.

Title: Application for an FM Translator or FM Booster Station License.

Form Number: FCC Form 350.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; not for profit institutions; State, local or tribal government.

Number of Respondents: 450.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 450 hours.

Total Annual Costs: 56,250.

Nature of Response: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On August 15, 2007, the Commission adopted a Notice of Proposed Rulemaking, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 07–144. The Commission proposes rule changes that would allow AM stations to use FM translator stations to rebroadcast the AM signal. The FCC Form 350 will not be revised. The Commission has concluded that revisions to the FCC Form 350 were not needed because FCC Form 350 only confirms that the FM translator station has been built to technical terms specified in the outstanding construction permit. FCC Form 350 does not require the FM translator station to specify the primary station that it will rebroadcast. Licensees and permittees of FM Translator or FM Booster stations are required to file FCC Form 350 to obtain a new or modified station license.

Please send your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA''), set forth in an Appendix to the Notice, concerning the possible significant economic impact on small entities by the policies and rules proposed in the Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing procedures and deadlines for comments and reply comments in response to the Notice, and should have a distinct heading designating them as responses to the IRFA. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). 5 U.S.C. 603(a). In addition, the Notice and IRFA (or summaries thereof) are here published in the **Federal Register**.

A. Need for, and Objective of, the Proposed Rules

The Notice proposes rules that will permit AM station licensees to use FM translator stations as a fill-in service within the service area of their daytime operating contour, to overcome nighttime coverage losses and daytime interference-related losses. The record in the proceeding demonstrates significant daytime and nighttime service problems in the AM band.

B. Legal Basis

The authority for the action proposed in the Notice is contained in 47 U.S.C. 151, 154(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The SBA defines a radio broadcast station that has no more than $6.5 million in annual receipts as a small business. 13 CFR 121.201, NAICS Code 515112. Business concerns included in this industry are those primarily engaged in broadcasting aural programs by radio to the public. See NAICS Code 515112. According to Commission staff review of the BIA Publications, Inc. Master Access Radio Analyzer Database on July 10, 2007, about 10,520 of 11,055 commercial radio stations (or about 95 percent) have revenues of $6.5 million or less and thus qualify as small entities under the SBA definition.

We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, may overstate the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules may apply do not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

The proposed rules and policies could affect licensees of FM translator and booster stations and low power FM (''LPFM'') stations, as well as to potential licensees in these radio services. The same SBA definition that applies to radio broadcast licensees would apply to these stations. As of December 31, 2006, there were approximately 4131 licensed FM translator and booster stations and 771 licensed LPFM stations. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. Representatives of LPFM broadcasters have commented that the proposed expansion of eligibility for, and service by, FM translators may have a detrimental effect on the development of the LPFM service by limiting the availability of frequencies remaining for LPFM service. We seek comments on the impact the proposed rule changes would have on LPFM and other stations, as well as on parties seeking to obtain authorizations to operate such stations.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Notice proposes rules that will permit AM station licensees to use FM translator stations as a fill-in service within the service area of their daytime operating contour, to overcome nighttime coverage losses and daytime interference-related losses. Use of an FM translator is at the option of the broadcast licensee. The Notice would not impose any mandatory reporting, recordkeeping and other compliance requirements, unless the licensee chooses to use an FM translator as a fill-in service. The proposed rule changes that will directly affect reporting, recordkeeping and other compliance requirements are described in an Appendix to the Notice. The Notice provides for no changes in the current application filing and processing procedures for FM translator stations, except that FCC Forms 303–S, 345, and 350 (including related instructions) will be modified to reflect the revised purpose and eligibility changes in the rules applicable to FM translator stations. We invite small business entities to comment in response to the Notice.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

The use of FM translator stations by AM radio stations is not mandatory. Therefore, with respect to the issue of the impact of the proposed rules on smaller entities, we believe small business broadcasters would benefit from the opportunities offered by the proposed rule changes. The Notice seeks comment on alternative eligibility standards and implementation rules that could particularly benefit small business broadcasters such as stand-alone AM stations and/or daytime-only AM stations. We invite small business entities to comment on the impact of the proposed rule changes, including the alternatives discussed in the Notice, on small business broadcasters, including FM and LPFM stations.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ex Parte Restrictions

This proceeding has been designated ''permit but disclose'' for purposes of the Commission's ex parte rules, 47 CFR 1.1200–1.1216. Ex parte presentations will be governed by the procedures set forth in 47 CFR 1.1206 applicable to non-restricted proceedings.

Filing Requirements

Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service

mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97 and/or Adobe Acrobat.

Accessibility Information. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Ordering Clauses

It is ordered that pursuant to Sections 1, 4(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324 that notice is hereby given of the proposals and tentative conclusions described in this Notice of Proposed Rule Making.

It is further ordered that the Reference Information Center, Consumer Information Bureau, shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 74

Radio, FM Translators.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (j), 301, 302, 303, 307, 308, 309, 319, and 324.

2. Amend § 74.1201 by revising paragraphs (a), (b), (c), (d), (e), and (g), and adding paragraph (j), as follows:

§ 74.1201 Definitions.

(a) *FM translator.* A station in the broadcasting service operated for the purpose of retransmitting the signals of an AM or FM radio broadcast station or another FM broadcast translator station without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide FM broadcast service to the general public.

(b) *Commercial FM translator.* An AM or FM broadcast translator station which rebroadcasts the signals of a commercial FM radio broadcast station.

(c) *Noncommercial FM translator.* An FM broadcast translator station which rebroadcasts the signals of a noncommercial educational AM or FM radio broadcast station.

(d) *Primary station.* The AM or FM radio broadcast station radiating the signals which are retransmitted by an FM broadcast translator station or an FM broadcast booster station.

(e) *AM or FM radio broadcast station.* When used in this subpart L, the term AM broadcast station or AM radio broadcast station or FM broadcast station or FM radio broadcast station refers to commercial and noncommercial educational AM or FM radio broadcast stations as defined in § 2.1 of this chapter, unless the context indicates otherwise.

* * * * *

(g) *Translator coverage contour.* The coverage contour for an FM translator providing ''fill-in'' service is congruent with its parent station: For a fill-in translator for a commercial Class B station it is the predicted 0.5 mV/m field strength contour; for a fill-in translator for a commercial Cass B1 station it is the predicted 0.7 mV/m field strength contour; and for a fill-in translator for all other classes of commercial stations as well as all noncommercial educational stations it is the predicted 1 mV/m field strength contour. A fill-in FM translator's coverage contour must be contained within the primary station's coverage contour. The coverage contour of an FM translator rebroadcasting an AM radio broadcast station must be contained within the lesser of the 2 mV/m daytime contour of the AM station and a 25-mile (40 km) radius centered at the AM transmitter site. The protected contour for an FM translator station is its predicted 1 mV/m contour.

* * * * *

(j) *AM Fill-in area.* The area within the lesser of the 2 mV/m daytime contour of the AM radio broadcast station being rebroadcast and a 25-mile (40 km) radius centered at the AM transmitter site.

3. Amend § 74.1231 by revising paragraphs (a), (b) and (h), and adding new paragraph (i) to read as follows:

§ 74.1231 Purpose and permissible service.

(a) FM translators provide a means whereby the signals of AM or FM broadcast stations may be retransmitted to areas in which direct reception of such AM or FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers and a means for AM daytime-only stations to continue operating at night.

(b) An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified, and originating programming to the extent authorized in paragraphs (f), (g), and (h) of this section. However, an FM translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast. An FM booster station or a noncommercial educational FM translator station that is operating on a reserved channel (Channels 201–220) and is owned and operated by the licensee of the primary noncommercial educational station it rebroadcasts may use alternative signal delivery means, including, but not limited to, satellite and terrestrial microwave facilities. Provided, however, that an applicant for a noncommercial educational translator operating on a reserved channel (Channel 201–220) and owned and operated by the licensee of the primary noncommercial educational AM or FM station it rebroadcasts complies with either paragraph (b)(1) or (b)(2) of this section:

(1) The applicant demonstrates that:

(i) The transmitter site of the proposed FM translator station is within 80 kilometers of the predicted 1 mV/m contour of the primary station to be rebroadcast; or,

(ii) The transmitter site of the proposed FM translator station is more than 160 kilometers from the transmitter site of any authorized full service noncommercial educational FM station; or,

(iii) The application is mutually exclusive with an application containing the showing as required by paragraph (b)(2)(i) or (ii) of this section; or,

(iv) The application is filed after October 1, 1992.

(2) If the transmitter site of the proposed FM translator station is more than 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast or is within 160 kilometers of the transmitter site of any authorized full service noncommercial educational FM station, the applicant must show that:

(i) An alternative frequency can be used at the same site as the proposed FM translator's transmitter location and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour; or,

(ii) An alternative frequency can be used at a different site and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour.

* * * * *

(h) An FM translator station that rebroadcasts an AM radio broadcast station may originate programming during the hours the AM radio broadcast station is not authorized to operate.

(i) FM broadcast booster stations provide a means whereby the licensee of an FM broadcast station may provide service to areas in any region within the primary station's predicted, authorized service contours. An FM broadcast booster station is authorized to retransmit only the signals of its primary station which have been received directly through space and suitably amplified, or received by alternative signal delivery means including, but not limited to, satellite and terrestrial microwave facilities. The FM booster station shall not retransmit the signals of any other station nor make independent transmissions, except that locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.

Note 1 to § 74.1231: In the case of an FM broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, an FM booster station will only be authorized within the protected contour of the class of station being rebroadcast as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned.

Note 2 to § 74.1231: For paragraphs (b) and (i) of this section, auxiliary intercity relay station frequencies may be used to deliver signals to FM translator and booster stations on a secondary basis only. Such use shall not interfere with or otherwise preclude use of these frequencies for transmitting aural programming between the studio and transmitter location of a broadcast station, or between broadcast stations, as provided in § 74.531 (a) and (b) of this part. Prior to filing an application for an auxiliary intercity relay microwave frequency, the applicant shall notify the local frequency coordination committee, or, in the absence of a local frequency coordination committee, any licensees assigned the use of the proposed operating frequency in the intended location or area of operation.

4. Amend § 74.1232 by revising paragraphs (c) and (d) to read as follows:

§ 74.1232 Eligibility and licensing requirements.

* * * * *

(c) Only one input and one output channel or frequency will be assigned to each FM translator. Additional FM translators may be authorized to provide additional reception. A separate application is required for each FM translator and each application shall be complete in all respects.

(d) An FM translator providing service to an AM fill-in area will be authorized only to the permittee or licensee of the AM radio broadcast station being rebroadcast. An authorization for an FM translator whose coverage contour extends beyond the protected contour of the commercial primary station will not be granted to the licensee or permittee of a commercial FM radio broadcast station. Similarly, such authorization will not be granted to any person or entity having any interest whatsoever, or any connection with a primary FM station. Interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. For the purposes of this paragraph, the protected contour of the primary station shall be defined as follows: the predicted 0.5mV/m contour for commercial Class B stations, the predicted 0.7 mV/m contour for commercial Class B1 stations and the predicted 1 mV/m field strength contour for all other FM radio broadcast stations. The contours shall be as predicted in accordance with § 73.313(a) through (d) of this chapter. In the case of an FM radio broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, a co-owned commercial FM translator will only be authorized within the protected contour of the class of station being rebroadcast, as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned. An FM translator station in operation prior to March 1, 1991, which is owned by a commercial FM (primary) station and whose coverage contour extends beyond the protected contour of the primary station, may continue to be owned by such primary station until March 1, 1994. Thereafter, any such FM translator station must be owned by independent parties. An FM translator station in operation prior to June 1, 1991, which is owned by a commercial FM radio broadcast station and whose coverage contour extends beyond the protected contour of the primary station, may continue to be owned by a commercial FM radio broadcast station until June 1, 1994. Thereafter, any such FM translator station must be owned by independent parties.

* * * * *

5. Amend § 74.1263 by revising paragraph (b) to read as follows:

§ 74.1263 Time of operation.

* * * * *

(b) An FM booster or FM translator station rebroadcasting the signal of an AM or FM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted. Notwithstanding the foregoing, FM translators rebroadcasting daytime-only AM stations may continue to operate during nighttime hours only if the AM station has operated within the last 24 hours.

* * * * *

6. Amend § 74.1284 by revising paragraphs (b) and (c) to read as follows:

§ 74.1284 Rebroadcasts.

* * * * *

(b) The licensee of an FM translator shall not rebroadcast the programs of any AM or FM broadcast station or other FM translator without obtaining prior consent of the primary station whose programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written

consent has been received from the licensee of the station whose programs are retransmitted.

(c) An FM translator is not authorized to rebroadcast the transmissions of any class of station other than an AM or FM broadcast station or another FM translator.

[FR Doc. E7–21271 Filed 11–5–07; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 72, No. 214

Tuesday, November 6, 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

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to ISTO Technologies, Inc. of St. Louis, Missouri, an exclusive license to U.S. Patent Application Serial No. 11/058,034, ''Porous Polymeric Matrices Made of Natural Polymers and Synthetic Polymers and Optionally at Least One Cation and Methods of Making'', filed on February 15, 2005.

DATES: Comments must be received within thirty (30) days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as ISTO Technologies Inc. of St. Louis, Missouri has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 07–5505 Filed 11–5–07; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Peterson Seed Associates of Edina, Minnesota, an exclusive license to the variety of birdsfoot trefoil described in Plant Variety Protection Certificate Number 200700300, ''Witt'', filed on May 7, 2007.

DATES: Comments must be received within thirty (30) days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agirculture. It is in the public interest to so license this variety as Peterson Seed Associates of Edina, Minnesota has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 07–5504 Filed 10–5–07; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2007–0032]

National Advisory Committee on Meat and Poultry Inspection; Re-establishment

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of re-chartering of Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary of Agriculture signed the charter of the National Advisory Committee on Meat and Poultry Inspection (NACMPI) on July 25, 2007. The charter for the NACMPI is available for viewing on the NACMPI homepage at *http://www.fsis.usda.gov/About_FSIS/NACMPI_Charter/index.asp*.

FOR FURTHER INFORMATION CONTACT: Loraine Cannon, U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), Room 405 Aerospace Center, 1400 Independence Avenue, SW., Washington, DC 20250–3700. Telephone number: (202) 690–6647.

SUPPLEMENTARY INFORMATION:

Background

The National Advisory Committee on Meat and Poultry Inspection provides advice and recommendations to the Secretary on meat and poultry inspection programs, pursuant to sections 7(c), 24, 205, 301(a)(3), and 301(c) of the Federal Meat Inspection Act [21 U.S.C. 607(c), 624, 645, 661(a)(3), and 661(c)] and to sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act [21 U.S.C. 454(a)(3), 454(c), 457(b), and 460(e)]. The complexity of the issues to be addressed requires that the Committee meet at least twice per year. Members are appointed by the Secretary of USDA. Background materials are available on the Web at the address

noted above or by contacting the person listed above.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC on: October 29, 2007.

Alfred V. Almanza,

Administrator.

[FR Doc. E7–21748 Filed 11–5–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's intention to request a renewal of current information collection processes currently used in support of Exporter Assistance programs. This request to renew is based on estimates of the public burden set forth in the abstract.

DATES: Comments on this notice must be received by January 7, 2008 to be assured of consideration.

Requests for Comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments and questions regarding the Export Assistance Programs registration forms, surveys and qualification criteria should be send to: Maria Nemeth-Ek, Branch Chief, Overseas Trade Support Group, Market Development and Grants Management Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 1052, Washington, DC 20250–1052. All written comments received will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m.—Phone (202) 720–6343, Fax: (202) 690–0193.

SUPPLEMENTARY INFORMATION:

Title: Export Services.

OMB Number: 0551–0031.

Expiration Date of Approval: March 31, 2008.

Type of Request: Renewal of a currently approved information collection process.

Abstract: The major objective of the Overseas Trade Support Group is to expand U.S. agricultural exports by helping U.S. companies to sell their products outside the United States. U.S. companies use the Foreign Buyer List service to learn of 20,000 buyers in more than 25 countries who specialize in the importation and distribution of U.S. products in their country. Specific program and form information is available at: *http://www.fas.usda.gov/agx/buying_us/foreign_buyers_exporters.asp*. Each year a certain number of trade shows are selected in the best prospective markets to host a U.S.A. pavilion where U.S. companies can promote their products to buyers. A list of USDA endorsed shows is available at: *http://www.fas.usda.gov/agx/trade_events/trade_events.asp*. The Exporter Assistance section of the FAS Web site *http://www.fas.usda.gov/*, a one-stop-shop for either the experienced or novice exporter offers information about exporting and easy access to register for these services. Customer service surveys are collected at various trade shows and evaluations of Foreign Buyers List data are downloaded annually in order to improve the effectiveness of these services. The information is necessary to manage, plan and evaluate the effectiveness of these services, which are intended to help U.S. companies to market and sell their products in overseas markets. Authority to collect this information falls under 7 U.S.C. part 1761 and is voluntary for U.S. companies to participate. A small fee is charged for some of the services.

Estimate of Burden: The burden to U.S. exporters is estimated to average 0.25 hours per response.

Respondents: U.S. agricultural exporters of food, farm, and forest products.

Estimated Number of Respondents: 3000 per annum.

Estimated Number of Responses per Respondent: 4 per annum.

Estimated Total Annual Burden of Respondents: 3000 hours per annum.

Copies of this information collection can be obtained from Tamoria Thompson-Hall, the Agency Information Collection Coordinator, at (202) 720–1690.

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.

Signed at Washington, DC.

Michael W. Yost,

Administrator, Foreign Agricultural Service.

[FR Doc. E7–21785 Filed 11–5–07; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Grain Inspection Advisory Committee. The Grain Inspection Advisory Committee meets twice annually to advise GIPSA on the programs and services we deliver under the U.S. Grain Standards Act. Recommendations by the committee help us to better meet the needs of our customers who operate in a dynamic and changing marketplace.

DATES: November 28, 8 a.m. to 5 p.m.; and November 29, 2007, 8 a.m. to 1 p.m.

ADDRESSES: The Advisory Committee meeting will take place at the Westin Tabor Center, 1672 Lawrence Street, Denver, Colorado 80202.

Requests to address the Advisory Committee at the meeting or written comments may be sent to: Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 3601, Washington, DC 20250–3601. Requests and comments may also be faxed to (202) 690–2173.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Henry, (202) 205–8281 or by e-mail at *Terri.L.Henry@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the Administrator of the Grain Inspection, Packers and Stockyards Administration with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*). Relevant information about the Advisory Committee is available on the GIPSA Web site. Go to *http://www.gipsa.usda.gov* and under the section ''I Want To * * *,'' click on ''Learn about the Grain Inspection Advisory Committee.''

The agenda will include discussions about the agency's financial status, organizational and technological enhancements that are improving service delivery; the pilot study to contract for export service provision and supplemental labor; improvements in the issuance of phytosanitary certification; the Agency's work in assessing wheat functionality, GIPSA's role in the ethanol market, and the relevance of the official standards for soybeans and other products.

For a copy of the agenda please contact Terri Henry, (202) 205–8281 or by e-mail *Terri.L.Henry@usda.gov.*

Public participation will be limited to written statements, unless permission is received from the Committee Chairman to orally address the Advisory Committee. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Terri Henry, at the telephone number listed above.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–21747 Filed 11–5–07; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Dry Fork Station and Hughes Transmission Project

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Termination of Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, is terminating further preparation of an Environmental Impact Statement (EIS) for the Dry Fork Station and Hughes Transmission Project in Campbell and Sheridan Counties, Wyoming.

The purpose of the EIS was to evaluate the potential environmental impacts of and alternatives to the Basin Electric Power Cooperative, Inc. (Basin Electric) application for a Rural Development loan guarantee to construct and operate a coal-fired electric generation facility referred to as the Dry Fork Station. Basin Electric did not request a loan guarantee from Rural Development for the Hughes Transmission Line, but it was being evaluated as a connected action for the EIS. Basin Electric withdrew their application to Rural Development on October 17, 2007.

A Draft EIS was filed with the U.S. Environmental Protection Agency on August 24, 2007, and notice of an extension of the public comment period to November 19, 2007, appeared in the **Federal Register** on October 17, 2007 (''Notice of Extension of Public Comment Period, Draft Environmental Impact Statement, Dry Fork Station and Hughes Transmission Line, Wyoming'', 72 FR 59071). Public hearings on the Draft EIS were held in Sheridan, Wyoming on September 25, 2007, and in Gillette, Wyoming on September 26, 2007.

ADDRESS AND FOR FURTHER INFORMATION: For more information, contact: Richard Fristik, USDA, Rural Development, Utilities Programs, 1400 Independence Avenue SW., Mail Stop 1571, Room 2240, Washington, DC 20250–1571, telephone (202) 720–5093, fax (202) 690–0649, or e-mail: *Richard.Fristik@wdc.usda.gov.*

Dated: October 31, 2007.

James R. Newby,

Assistant Administrator, USDA Rural Development, Utilities Programs.

[FR Doc. E7–21749 Filed 11–5–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–580–836, C–580–837

Certain Cut–to-Length Carbon–Quality Steel Plate Products From the Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and Countervailing Duty Administrative Review

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

EFFECTIVE DATE: November 6, 2007.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Minoo Hatten at (202) 482–5760 and (202) 482–1690, respectively (antidumping), and Jolanta Lawska or Eric Greynolds at (202) 482–8362 and (202) 482–6071, respectively (countervailing duty), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on certain cut–to-length carbon–quality steel plate products from the Republic of Korea for the period February 1, 2006, through January 31, 2007. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 14516 (March 28, 2007) (*March Initiation Notice*), for Dongkuk Steel Mill Co., Ltd. (DSM), and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (April 27, 2007), for DSEC Co., Ltd., a subsidiary of Daewoo Shipbuilding & Marine Engineering (DSEC), and Tae Chang Steel Co., Ltd. (TC Steel). The Department initiated an administrative review of the countervailing duty order on certain cut–to-length carbon–quality

steel plate products from the Republic of Korea for the period January 1, 2006, through December 31, 2006. See *March Initiation Notice* for DSM, DSEC, and TC Steel. We rescinded the review of TC Steel. See *Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 72 FR 36962 (July 6, 2007). The preliminary results of both reviews are currently due no later than October 31, 2007.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month. See also 19 CFR 351.213(h).

We determine that it is not practicable to complete the preliminary results of these reviews by the current deadline of October 31, 2007. Specifically, for the antidumping review, there are a number of complex factual issues such as one respondent's corporate affiliations, whether certain of its sales are outside the ordinary course of trade, and selection of an adverse facts–available rate for an uncooperative respondent which affect the calculations for the preliminary results. For the countervailing duty review, we need to resolve a question concerning shipments by one of the respondents. Therefore, we are extending the time period for issuing the preliminary results of these reviews by 15 days until November 15, 2007.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act and 19 CFR 351.213(h)(2).

Dated: October 31, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–21802 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–910

Postponement of Preliminary Determination of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China

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

EFFECTIVE DATE: November 6, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3936.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On June 27, 2007, the Department of Commerce (''Department'') initiated the antidumping duty investigation of circular welded carbon quality steel pipe from the People's Republic of China. *See Initiation of Antidumping Duty Investigation: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 72 FR 36663 (July 5, 2007) (''*Initiation Notice*''). The notice of initiation stated that the Department would make its preliminary determination for this antidumping duty investigation no later than 140 days after issuance. *See Initiation Notice*, 72 FR at 36667.

On October 2, 2007, Allied Tube & Conduit, Sharon Tube Company, IPSCO Tubulars, Inc., Western Tube & Conduit Corporation, Northwest Pipe Company, Wheatland Tube Co., *i.e.*, the Ad Hoc Coalition For Fair Pipe Imports From China, and the United Steelworkers (collectively ''Petitioners'') made a timely request pursuant to 19 CFR 351.205(e) and section 733(c)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), for a postponement of the preliminary determination. Petitioners requested postponement of the preliminary determination because it needs additional time to evaluate the questionnaire responses filed by respondents, and, if warranted, prepare an allegation of targeted dumping. *See* 19 CFR 351.301(d)(5).

For the reasons identified by the Petitioners, and because there are no compelling reasons to deny the request, the Department is postponing the preliminary determination under section 733(c)(1)(A) of the Act, by fifty days from November 14, 2007, to January 3, 2008. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless extended.

This notice is issued and published pursuant to sections 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 31, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7–21800 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs From the People's Republic of China: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (''Department'') and the International Trade Commission (''ITC'') that revocation of the existing antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC'') would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of the antidumping duty (''AD'') order.

DATES: *Effective Dates:* November 6, 2007.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Matthew Quigley, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–0650 202–482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2007, the Department published the notice of initiation of the sunset review of the antidumping duty order on folding metal tables and chairs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Reviews, 72 FR 23799 (May 1, 2007) (''Initiation Notice''); see also,*

Antidumping Duty Order: Folding Metal Tables and Chairs From the People's Republic of China, 67 FR 43277 (June 27, 2002) (''*Order*''). As a result of its review, the Department found that revocation of the AD order would likely lead to continuation or recurrence of dumping and notified the ITC of the margins likely to prevail were the order revoked. *See Folding Metal Tables and Chairs from the People's Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 72 FR 51409 (September 7, 2007). On September 20, 2007, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the AD order on folding metal tables and chairs from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Folding Metal Tables and Chairs from China*, 72 FR 60389 (October 24, 2007), and USITC Publication 3952 Inv. No. 731–TA–932 (Review) (September 2007).

Scope of the Order

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (''folding metal tables''). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table.

Specifically excluded from the scope of folding metal tables are the following:

Lawn furniture;

Trays commonly referred to as ''TV trays'';

Side tables;

Child-sized tables;

Portable counter sets consisting of rectangular tables 36″ high and matching stools; and Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (''folding metal chairs''). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.0030, 9401.79.0045, 9401.79.0050, 9403.20.0015, 9403.20.0030, 9403.70.8010, 9403.70.8020, and 9403.70.8030 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[1] Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection purposes, the Department's written description of the merchandise is dispositive.

On January 13, 2003, the Department issued a scope ruling determining that ''Poly-Fold'' chairs consisting of steel frames (20-gauge steel) with polypropylene seats and backs, zinc-plated rivets coated with an epoxy polyester powder coating, three drainage holes in the seat, specially designed back leg cross bar, four oversized leg stoppers with drainage holes, and a frame with hybrid coating are within the scope of the antidumping duty order.[2]

On May 5, 2003, the Department issued a scope ruling with respect to the ''Complete Office-To-Go'' set, which consists of a single chair and a table with a monitor stand and legs that fold as a set. The Department ruled that the chair component is within the scope of the antidumping duty order because the chair component is identical to the chairs described in the order, but the Department ruled that table component is outside the scope of the AD order because it has legs that fold in sets.[3]

On September 7, 2004, the Department issued a scope ruling determining that folding tables with tops made of blow-molded plastic and frames made of steel are within the scope of the AD order.[4]

On July 13, 2005, the Department issued a scope ruling determining that folding metal chairs, with wooden seats that have been padded with foam and covered with fabric or polyvinyl chloride and attached to a tubular steel seat frame with screws, are within the scope of the AD order.[5]

Also on July 13, 2005, the Department issued a scope ruling determining that ''butterfly'' chairs are outside the scope of the AD order. Butterfly chairs are described as consisting of a collapsible metal rod frame and a cover, such that when the chair frame is spread open, the pockets of the cover are slipped over the upper ends of the frame and the cover provides both the seating surface and back of the chair. The frame consists of eight s-shaped pieces (with the ends offset at almost a 90-degree angle) made from metal rod that are connected by hinges. The frame is collapsed by moving the four legs inward until they meet in the center, similar to the folding mechanism of a pocket umbrella. Although butterfly chairs, as described by the requester have supports made of steel or other metal, they do not have cross-braces affixed to the front and/or rear legs. The seat and back is one piece of cloth, which also serves as the carrying bag for the chair frame when not in use, and is therefore not affixed to the frame with

[1] Originally the scope included 9403.20.0010, but effective July 1, 2003, 9403.20.0010 (metal household furniture) was eliminated from the HTS code. 9403.20.0011 (ironing boards) and 9403.20.0015 (other) were added in its place. 9403.20.0015 contains merchandise in 9403.20.0010 except for ironing boards.

[2] *See* ''Final Scope Ruling on Whether RPA International Pty. Ltd.'s Poly-Fold Chairs Are Excluded from the Scope of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China'' (January 13, 2003).

[3] *See* ''Final Scope Ruling on Whether Staples, The Office Superstore, Incorporated's 'Complete Office-To-Go' is Excluded from the Scope of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China'' (May 5, 2003).

[4] *See* ''Final Scope Ruling on Whether Lifetime Tables 4600 and 4606 Are Excluded from the Scope of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China'' (September 7, 2004).

[5] *See* ''Final Scope Ruling of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China (A–570–868); Korhani of America, Inc.'' (July 13, 2005).

screws, rivets, welds or any other type of fastener.[6]

On May 1, 2006, the Department issued a scope ruling determining that the ''moon chair'' was outside the scope of the antidumping duty order because it collapses rather than folds as a chair subject to the order would fold, and it does not have a back pad or seat pad commonly found in folding chairs. Moon chairs are described as containing circular, fabric-padded, concave cushions that envelope the user at approximately a 105-degree reclining angle. The fabric cushion is ringed and supported by two curved 16-mm steel tubes. The cushion is attached to this ring by nylon fabric. The cushion is supported by a 16-mm steel tube four-sided rectangular cross-brace mechanism that constitutes the moon chair's legs. This mechanism supports and attaches to the encircling tubing and enables the moon chair to be folded. To fold the chair, the user pulls on a fabric handle in the center of the seat cushion of the chair.[7]

Continuation of Order

As a result of the determinations by the Department and the ITC that revocation of the AD order on folding metal tables and chairs from the PRC would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on folding metal tables and chairs from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. This review covers imports from all manufacturers and exporters of folding metal tables and chairs from the PRC.

The effective date of continuation of this AD order will be the date of publication in the **Federal Register** of this Continuation Notice. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of this order not later than September 2012.

This five-year or ''sunset'' review and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: October 31, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7–21798 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* ''Final Scope Ruling of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China (A–570–868); Spencer Gifts, LLC'' (July 13, 2005).

[7] *See* ''Final Scope Ruling of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China (A–570–868); Mac Industries (Shanghai) Co., Ltd., Jiaxing Yinmao International Trading Company, Ltd and Fujian Zenithen Consumer Products Company Ltd.'' (May 1, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs From the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

October 29, 2007.

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

DATES: *Effective Dates:* November 6, 2007.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, 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) 482–4243 or (202) 482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2006, the Department of Commerce (''the Department'') published the initiation of the administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 42626 (July 27, 2006). On July 11, 2007, the Department published the preliminary results. *See Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 37703 (July 11, 2007). This review covers the period June 1, 2005, through May 31, 2006. The final results are currently due by November 8, 2007.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary results are published. The Act further provides, however, that the Department may extend that 120-day period to 180 days after the preliminary results if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the final results of the administrative review of folding metal tables and chairs from the PRC within the 120-day period due to complex issues the parties have raised regarding surrogate financial statements. In accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the final results of this review by 30 days to 150 days after the date on which the preliminary results were published. Therefore, the final results are now due no later than December 7, 2007.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: October 29, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–21809 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of New Shipper Review

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

SUMMARY: On September 10, 2007, the Department of Commerce (the Department) published the preliminary results of the new shipper review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey. This review covers one producer/exporter of the subject merchandise to the United States, Ege Celik Endustrisi ve Ticaret A.S./Ege Dis Ticaret A.S. (Ege Celik). The period of review (POR) is April 1, 2006, through September 30, 2006.

Based on our analysis of the comments received, we have made no changes to the margin calculations. Therefore, the final results do not differ from the preliminary results. The final weighted–average dumping margin for Ege Celik is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: November 6, 2007.

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

SUPPLEMENTARY INFORMATION:

Background

This new shipper review covers one producer/exporter, Ege Celik. On September 10, 2007, the Department published in the **Federal Register** the preliminary results of the new shipper review of the antidumping duty order on rebar from Turkey. *See Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Steel Concrete Reinforcing Bars from Turkey*, 72 FR 51598 (Sep. 10, 2007) (*Preliminary Results*).

We invited parties to comment on our preliminary results of this review. In October 2007, we received a case brief with respect to the preliminary results from the domestic industry (*i.e.*, Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation), and we received a rebuttal brief with respect to the preliminary results from Ege Celik.

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 2006, through September 30, 2006.

Bona Fide Sale Analysis

In the preliminary results, we found that Ege Celik's reported U.S. sale during the POR was a *bona fide* sale, as required by 19 CFR 351.214(b)(2)(iv)(c), based on the totality of the facts on the record. *See* the Memorandum to James Maeder from Irina Itkin entitled, ''Analysis of Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S.'s *Bona Fides* As A New Shipper in the New Shipper Review of Certain Steel Concrete Reinforcing Bars from Turkey,'' dated September 4, 2007, for further discussion of our price and quantity analysis.

For the final results, the Department continues to find that Ege Celik's sole U.S. sale during the POR was a *bona fide* commercial transaction.

Turkish Government Competition Board's Report

In this review, the domestic interested parties submitted a report by the Turkish Government Competition Board (the Competition Board) regarding the Turkish steel industry. The domestic interested parties argued that this report demonstrates that Ege Celik, as well as the vast majority of the Turkish rebar industry, engaged in anti–competitive behavior prior to and during the POR by colluding with other producers to manipulate home market and export prices and to suppress costs. As noted in our preliminary findings with respect to the Competition Board's report, we did not rely on the evidence or conclusions in the Competition Board's report as the basis for any findings in this review. Rather, we investigated whether the facts during the POR would cause us to dismiss reported home market prices or costs within the confines of U.S. antidumping duty law and regulations. *See* the August 31, 2007, Memorandum from Shawn Thompson, Irina Itkin, and Brianne Riker to David M. Spooner, entitled ''Preliminary Finding on Issues Related to the Turkish Government Competition Board's Reports in Certain Steel Concrete Reinforcing Bars from Turkey.'' For purposes of the final results, the domestic industry neither provided any new arguments with respect to the information on the record pertaining to the Competition Board's report or the respondents' reported costs, prices, and affiliations that were not already addressed in our preliminary findings, nor commented on specific sections of our preliminary findings with which it disagreed. Rather, the domestic industry merely stated its opposition to our preliminary findings and reiterated its previous arguments. Therefore, we continue to find that: 1) there is no basis to find that Ege Celik is affiliated with any other Turkish rebar producers; 2) there is no basis to conclude that the sales and cost data in this review are distorted by non–market considerations and, thus, it is appropriate to rely on this data for purposes of the final results; and 3) Ege Celik is entitled to a new shipper review because it has met the requirements set forth under 19 CFR 351.214(b). For further discussion, see the Issues and Decision Memorandum (Decision Memo) at Comment 1.

Cost of Production

As discussed in the *Preliminary Results*, we conducted an investigation to determine whether Ege Celik made home market sales of the foreign like product during the POR at prices below its cost of production (COP) within the meaning of section 773(b)(1) of the Tariff Act of 1930, as amended (the Act). We performed the cost test for these final results following the same methodology as in the *Preliminary Results*.

We found 20 percent or more of Ege Celik's sales of a given product during the reporting period were at prices less than the weighted–average COP for this period. Thus, we determined that these below–cost sales were made in ''substantial quantities'' within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(2)(B) - (D) of the Act.

Therefore, for purposes of these final results, we found that Ege Celik made below–cost sales not in the ordinary course of trade. Consequently, we disregarded these sales and used the remaining sales as the basis for determining normal value pursuant to section 773(b)(1) of the Act.

Analysis of Comments Received

All issues raised in the case briefs by parties to these reviews, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made no changes to the margin calculations. Because the margin calculations for Ege Celik have not changed from the preliminary results, the preliminary calculations placed on the record of this review are adopted as the final margin calculations.

Final Results of Review

We determine that the following weighted–average margin percentage exists for the period April 1, 2006, through September 30, 2006:

Manufacturer/Producer/Exporter	Margin Percentage
Ege Celik Endustrisi ve Ticaret A.S./Ege Dis Ticaret A.S.	0.00

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. Pursuant to 19 CFR 351.212(b)(1), because we have the reported entered value of Ege Celik's U.S. sale, we have calculated an importer–specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sale to the total entered value of that sale. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if the importer–specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). *See* 19 CFR 351.106(c)(1). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by Ege Celik for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the All–Others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for merchandise produced by Ege Celik Endustrisi ve Ticaret A.S. and exported by Ege Dis Ticaret A.S. will be the rate shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; 2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the All Others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act, as well as 19 CFR 351.214(i).

Dated: October 31, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix – Issues in Decision Memorandum

General Issues

Issues Related to the Turkish Government Competition Board's Report

[FR Doc. E7–21805 Filed 11–5–07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–489–807

Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination To Revoke in Part

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

SUMMARY: On May 4, 2007, the Department of Commerce (the Department) published the preliminary results of the administrative review and new shipper review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey. These reviews cover six producers/exporters of the subject merchandise to the United States. The period of review (POR) is April 1, 2005, through March 31, 2006.

Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted–average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

Finally, we have determined to revoke the antidumping duty order with respect to Turkish rebar produced and exported by Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. (collectively ''Colakoglu'') and Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Turizm Ticaret A.S., and Diler Dis Ticaret A.S. (collectively ''Diler'').

EFFECTIVE DATE: November 6, 2007.

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

SUPPLEMENTARY INFORMATION:

Background

The administrative review covers the following five producers/exporters: Colakoglu; Diler; Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. (collectively ''Ekinciler''); Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas); and Kaptan Metal Dis Ticaret ve Nakliyat A.S. and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (collectively ''Kaptan''). The new shipper review covers one producer/exporter, Kroman Celik

Sanayii A.S. and Yucelboru Ihracat Ithalat ve Pazarlama A.S. (collectively ''Kroman'').

On May 4, 2007, the Department published in the **Federal Register** the preliminary results of the administrative review and new shipper review of the antidumping duty order on rebar from Turkey. *See Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review and Notice of Intent to Revoke in Part*, 72 FR 25253 (May 4, 2007) (*Preliminary Results*).

In August 2007, based on the information on the record, we preliminarily found that there is no evidence that the respondents in these reviews engaged in anti–competitive practices in Turkey during the POR, as alleged by the domestic industry (*i.e.*, Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation). For further discussion, see the August 31, 2007, Memorandum from James Maeder, Shawn Thompson, Irina Itkin, and Brianne Riker to David M. Spooner, entitled ''Preliminary Finding on Issues Related to the Turkish Government Competition Board's Reports in Certain Steel Concrete Reinforcing Bars from Turkey'' (the Competition Board memo). *See also* the ''Turkish Government Competition Board's Report'' section of this notice, below.

We invited parties to comment on our preliminary results of these reviews, as well as on the preliminary findings set forth in the Competition Board memo. In August 2007, we received case briefs with respect to the preliminary results from the domestic industry and four of the six respondents (*i.e.*, Colakoglu, Ekinciler, Habas, and Kaptan), and we received rebuttal briefs with respect to the preliminary results from all parties participating in these administrative reviews. In addition, in September 2007, we received case briefs with respect to the preliminary findings in the Competition Board memo from the domestic industry, and we received rebuttal briefs from all respondents.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 2005, through March 31, 2006.

Determination To Revoke Order, in Part

The Department may revoke, in whole or in part, an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following: 1) A certification that the company has sold the subject merchandise at not less than normal value (NV) in the current review period and that the company will not sell subject merchandise at less than NV in the future; 2) a certification that the company sold commercial quantities of the subject merchandise to the United States in each of the three years forming the basis of the request; and 3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider: 1) whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; 2) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV; and 3) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping. *See* 19 CFR 351.222(b)(2)(i). *See Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order in Part*, 67 FR 69719, 69720 (Nov. 19, 2002).

We have determined that the requests from Colakoglu and Diler meet all of the criteria under 19 CFR 351.222. With regard to the criteria of subsection 19 CFR 351.222(b)(2), our final margin calculations show that Colakoglu and Diler sold rebar at not less than NV during the current review period. In addition, Colakoglu and Diler sold rebar at not less than NV in the two previous administrative reviews in which they were involved (*i.e.*, their dumping margins were zero or *de minimis*). *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (Nov. 7, 2006) and *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67667 (Nov. 8, 2005). Also, we find that application of the antidumping duty order to Colakoglu and Diler is no longer warranted for the following reasons: 1) the companies had zero or *de minimis* margins for a period of at least three consecutive years; 2) each company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and 3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we find that Colakoglu and Diler qualify for revocation of the antidumping duty order on rebar under 19 CFR 351.222(b)(2). Accordingly, we are revoking the order with respect to subject merchandise produced and exported by Colakoglu, as well as with respect to subject merchandise produced and exported by Diler. For further discussion, see the Issues and Decision Memorandum (Decision Memo) accompanying this notice at Comment 1.

Effective Date of Revocation

This revocation applies to all entries of subject merchandise that are produced and exported by Colakoglu and Diler, and are entered, or withdrawn from warehouse, for consumption on or after April 1, 2006. The Department will order the suspension of liquidation ended for all such entries and will instruct U.S. Customer and Border Protection (CBP) to release any cash deposits or bonds. The Department will further instruct CBP to refund with interest any cash deposits on entries made on or after April 1, 2006.

Bona Fide Sale Analysis

In the preliminary results, we found that Kroman's reported U.S. sale during the POR was a *bona fide* sale, as required by 19 CFR 351.214(b)(2)(iv)(c),

based on the totality of the facts on the record. *See* the Memorandum to James Maeder from Irina Itkin entitled, ''Analysis of Kroman Celik Sanayii A.S.'s *Bona Fides* As A New Shipper in the New Shipper Review of Certain Steel Concrete Reinforcing Bars from Turkey,'' dated April 30, 2007, for further discussion of our price and quantity analysis.

For the final results, the Department continues to find that Kroman's sole U.S. sale during the POR was a *bona fide* commercial transaction.

Turkish Government Competition Board's Report

As noted in our preliminary findings with respect to the Competition Board's report, we did not rely on the evidence or conclusions in the Competition Board's report as the basis for any findings in these reviews. Rather, we investigated whether the facts during the POR would cause us to dismiss reported home market prices or costs within the confines of U.S. antidumping duty law and regulations. *See* the ''Competition Board Memo.'' For purposes of the final results, the domestic industry neither provided any new arguments with respect to the information on the record pertaining to the Competition Board's report or the respondents' reported costs, prices, and affiliations that were not already address in our preliminary findings, nor commented on specific sections of our preliminary findings with which it disagreed. Rather, we find that the domestic industry merely stated its opposition to our preliminary findings and reiterated its previous arguments. Therefore, we continue to find that: 1) there is no basis to find that the respondents are affiliated, and a collapsing analysis is neither warranted nor necessary; 2) there is no basis to conclude that the sales and cost data in these reviews are distorted by non–market considerations and, thus, it is appropriate to rely on this data for purposes of the final results; 3) Kroman is entitled to a new shipper review because it has met the requirements set forth under 19 CFR 351.214(b); and 4) the use of adverse facts available, pursuant to sections 776(a) and (b) of the Act, is not warranted for any of the respondents in the administrative review or new shipper review because the respondents provided all requested information and have cooperated fully in these segments of the proceeding. For further discussion, see the Decision Memo at Comment 1.

Cost of Production

As discussed in the *Preliminary Results*, we conducted an investigation to determine whether Colakoglu, Diler, Ekinciler, Habas, Kaptan, and Kroman made home market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b)(1) of the Act. We performed the cost test for these final results following the same methodology as in the *Preliminary Results*, except as discussed in the Decision Memo.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted–average COP for this period. Thus, we determined that these below–cost sales were made in ''substantial quantities'' within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(2)(B) - (D) of the Act.

Therefore, for purposes of these final results, we found that Colakoglu, Diler, Ekinciler, Habas, Kaptan, and Kroman made below–cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales as the basis for determining NV pursuant to section 773(b)(1) of the Act.

Analysis of Comments Received

All issues raised in the case briefs by parties to these reviews, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/* . The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. These changes are discussed in the relevant sections of the Decision Memo. Because the margin calculations for Habas and Kaptan have not changed from the preliminary results, the preliminary calculations placed on the records of these reviews are adopted as the final margin calculations.

Final Results of Review

We determine that the following weighted–average margin percentages exist for the period April 1, 2005, through March 31, 2006:

Manufacturer/Producer/Exporter	Margin Percentage
Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S.	0.32 (*de minimis*)
Diler Demir Celik Endustrisi ve Ticaret A.S./ Yazici Demir Celik Sanayi ve Turizm Ticaret A.S./ Diler Dis Ticaret A.S.	0.14 (*de minimis*)
Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S.	1.66
Habas Sinai ve Tibbi Gazlar Istithsal Endustrisi A.S.	0.22 (*de minimis*)
Kaptan Demir Celik Endustrisi ve Ticaret A.S./ Kaptan Metal Dis Ticaret ve Nakliyat A.S.	0.00
Kroman Celik Sanayii A.S./ Yucelboru Ihracat Ithalat ve Pazarlama A.S.	0.00

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for all sales made by Colakoglu, Habas, Kaptan, and Kroman, as well as for certain sales made by Ekinciler, because we have the reported entered value of the U.S. sales, we have calculated importer–specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Moreover, for all sales by Diler, as well as for the remaining sales made by Ekinciler, these companies did not report entered values for the U.S. sales in question. Accordingly, we have calculated importer–specific assessment rates for each respondent's merchandise by aggregating the dumping margins calculated for its U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific *ad valorem* ratios based on the estimated entered value.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Because we have revoked the order with respect to subject merchandise produced and exported by Colakoglu, as well as with respect to subject merchandise produced and exported by Diler, we will instruct CBP to terminate the suspension of liquidation for exports of such merchandise entered, or withdrawn from warehouse, for consumption on or after April 1, 2006, and to refund all cash deposits collected.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. This clarification will also apply to POR entries of subject merchandise produced by companies for which we are rescinding the review based on certifications of no shipments, because these companies certified that they made no POR shipments of subject merchandise for which they had knowledge of U.S. destination. In such instances, we will instruct CBP to liquidate unreviewed entries at the All–Others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey (except shipments from Colakoglu and Diler, as noted above) entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; 2) for merchandise produced by Kroman Celik Sanayii A.S. and exported by Yucelboru Ihracat Ithalat ve Pazarlama A.S., the combination cash deposit rate will be 0.00 percent; 3) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 4) if the exporter is not a firm covered in this review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 5) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the All Others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix – Issues in Decision Memorandum

General Issues

1. Issues Related to the Turkish Government Competition Board's (the Competition Board's) Report
2. Date of Sale for Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. (collectively ''Colakoglu'') and Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)
3. Model Matching
4. Methodology for Determining Contemporaneous Sales in the Home Market

Company–Specific Issues

5. General and Administrative (G&A) Expenses for Colakoglu
6. Depreciation Expenses for Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. (collectively ''Ekinciler'')
7. G&A Expenses for Ekinciler
8. Subcontracted Rolling Costs for Habas
9. Affiliation Issue for Kaptan Metal Dis Ticaret ve Nakliyat A.S. and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (collectively ''Kaptan'')
10. Affiliated–Party Loading Services for Kaptan

[FR Doc. E7–21808 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice; Preparation of a Papahanaumokuakea Marine National Monument Natural Resources Science Plan

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

SUMMARY: This notice advises the public that the Co-Trustees of the Papahanaumokuakea Marine National Monument (Monument) in the Northwestern Hawaiian Islands (NWHI) and surrounding marine areas intend to prepare a Natural Resources Science Plan (Science Plan) and associated environmental assessment (EA) for the Monument. The Science Plan is being developed concurrently with the comprehensive Monument Management Plan (MMP) [Notice of Intent to Prepare Monument Management Plan and EA, **Federal Register** April 4, 2007 (Volume 72, Number 64)]. The Science Plan will identify management needs, highlight priority thematic areas designed to meet these needs, and describe the current and proposed research projects housed under these themes. The Co-Trustees are seeking public input on the development of the plan. There will be a public scoping meeting to solicit comments on November 15, 2007.

DATES: The public meeting will be held on Thursday, November 15, 2007, 6 p.m.–8 p.m. at the Japanese Cultural Center of Hawaii, in Honolulu, HI. Written comments will be accepted through November 30, 2007.

ADDRESSES: The public meeting will be held at the Japanese Cultural Center located at 2454 South Beretania Street, Honolulu, Hawaii 96826. Meeting materials will be posted on the Monument Web site (*http://www.hawaiireef.noaa.gov*) from November 15–November 30, 2007. Written comments may be provided in person at the public meeting, via fax at 808–397–2662, or E-mail via E-mail at *NWHIComments@noaa.gov.*

SUPPLEMENTARY INFORMATION: Prior to the creation of the Northwestern Hawaiian Islands Marine National Monument by President George W. Bush on June 15, 2006, NOAA was engaged in management planning and environmental impact assessment development to support the public process for the NWHI to be designated as a National Marine Sanctuary through the public sanctuary designation process. As part of that planning process a 3-day workshop was held in May 2003

to discuss critical scientific information needs related to long term conservation and management of the NWHI. Over 100 research scientists and resource managers attended the workshop representing agencies, universities, and organizations nationwide. The workshop resulted in the identification of five priority research areas to support management in the NWHI. These are described in detail in a document called the final Information Needs for Conservation and Management of the Northwestern Hawaiian Islands Report, which is available at *http://hawaiireef.noaa.gov/research/2002Workshop/NWHI_Summary.pdf.*

On June 15, 2006, President Bush signed Presidential Proclamation 8031 (Proclamation) establishing the Northwestern Hawaiian Islands Marine National Monument, subsequently renamed the Papahanaumokuakea Marine National Monument. The Monument is administered by the U.S. Department of Commerce through NOAA, U.S. Department of the Interior through the Fish and Wildlife Service (FWS), and the State of Hawaii through the Department of Land and Natural Resources (DLNR) (collectively, the Co-Trustees). The Proclamation provides the authority for the Co-Trustees to issue research permits for activities designed to further understanding of Monument resources and qualities, and to assist in conservation and management of the Monument.

The Science Plan will be used to guide these research activities. It will be based on the results from the information needs workshop, a multi-agency archipelagic research plan (under development), agency expertise and identified management needs, and public input. It will contain five themes relevant to natural resources research: (1) Ecological Processes and Connectivity, (2) Biodiversity and Habitats, (3) Human Impacts, (4) Indicators and Monitoring of Ecosystem Change, and (5) Modeling and Forecasting Ecosystem Change.

The Co-Trustees are seeking public input on the development of the draft Science Plan. Input is requested on the themes proposed in the draft plan, as well as the type of research to be conducted under each theme.

A public scoping meeting will be held in Honolulu to solicit comments. A presentation will highlight the Science Plan development process, including sources of information utilized to date. Following the presentation, the public will be invited to provide written or oral comment on the five thematic research areas and projects that should be conducted under each thematic area. Written comments will also be accepted at the dates and locations specified in the **DATES** and **ADDRESSES** sections above.

Dated: October 24, 2007.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Oceanic and Atmospheric Administration.

[FR Doc. 07–5502 Filed 11–5–07; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Board Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice; correction.

SUMMARY: The notice of the names of members of a Performance Review Board for the Department of the Army published in the **Federal Register** on October 25, 2007 (72 FR 60662) has added two additional members.

DATES: *Effective Date:* September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Lucrencia Murdock, Civilian Senior Leader Management Office, 140 Army Pentagon, Washington, DC 20310–0140.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Department of the Army Performance Review Boards are:

1. Dr. Grace M. Bochenek, Director, U.S. Army Tank automotive Research, Development and Engineering Center, U.S. Army Material Command.

2. Mr. George S. Dunlop, Principal Deputy Assistant Secretary of the Army (Civil Works)/Deputy Assistant Secretary of the Army (Legislation).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–5522 Filed 11–5–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of a Supplement to the Draft Environmental Impact Statement (SDEIS) for the Proposed Potash Corporation of Saskatchewan Phosphate Mine Continuation Near Aurora, in Beaufort County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District, Regulatory Division has been reviewing the request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, from Potash Corporation of Saskatchewan Phosphate Division (PCS) for the continuation of its phosphate mining operation near Aurora, Beaufort County, NC. PCS proposes to expand its existing open pit phosphate mining operation into a 3,412 acre tract immediately adjacent to the current mine. This expansion would impact 2,408 acres of waters of the U.S. including wetlands adjacent to the Pamlico River and South Creek. The Notice of Availability of the Draft Environmental Impact Statement for this action was published in the **Federal Register** on Friday, October 20, 2006 (71 FR 61962).

DATES: Written comments on this SDEIS will be received until December 21, 3007.

ADDRESSES: Comments and questions regarding the SDEIS may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division, ATTN: File Number 2001–10096, Post Office Box 1890, Wilmington, NC 28402–1890. Copies of the Draft EIS can be reviewed on the Wilmington District Regulatory homepage at, *http://www.saw.usace.army.mil/wetlands/regtour.htm*, or contact Ms. Alex Rhodes at (910) 251–4633, to receive written or CD copies of the SDEIS.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and SDEIS can be directed to Mr. Tom Walker, Project Manager, Regulatory Division, telephone: (828) 271–7980 extension 222.

SUPPLEMENTARY INFORMATION: The Corps, on October 20, 2006, released a Draft Environmental Impact Statement (DEIS) evaluating the proposed project and alternatives to the proposed project. Simultaneously, the Corps released a

public notice requesting comment on the DEIS and the applicant's proposed action. Due to the complexity of this project, the comment period was originally set at three months and subsequently extended an additional 2 weeks. A public hearing was held on December 14, 2006. The DEIS contained no designation of an agency preferred alternative.

Since release of the DEIS, the Corps has reviewed comments and further discussed economic practicability with the applicant. As a result of this evaluation the Corps finds it necessary to evaluate an additional alternative, Alternative ''L.'' PCS, on its own initiative, has developed a second additional alternative, Alternative ''M,'' and has requested it be evaluated as well. Both these alternatives are contained within the project area established in the DEIS.

In order to provide the information necessary to objectively evaluate both alternatives ''L'' and ''M'' and to compare these alternatives to the alternatives introduced in the DEIS the Corps is releasing this Supplement to the DEIS (SDEIS). The decision whether to issue a Department of the Army Clean Water Act Section 404 permit will be made after completing the required 404(b)(1) analysis and public interest review including full consideration of all comments.

Dated: October 30, 2007.

John E. Pulliam, Jr.,

Colonel, U.S. Army, District Commander.

[FR Doc. 07–5523 Filed 11–5–07; 8:45 am]

BILLING CODE 3710–GN–M

DEPARTMENT OF EDUCATION

The Historically Black Colleges and Universities Capital Financing Advisory Board

AGENCY: Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board. The notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: Friday, November 30, 2007.

Time: 10 a.m.–2 p.m.

ADDRESSES: Clark Atlanta University, Board Room, Thomas W. Cole Science Research Center, 223 J.P. Brawley Drive, SW., Atlanta, Georgia 30314.

FOR FURTHER INFORMATION CONTACT: Don E. Watson, Executive Director, Historically Black College and University Capital Financing Program, 1990 K Street, NW., Room 6130, Washington, DC 20006; telephone: (202) 219–7037; fax: (202) 502–7852; e-mail: *donald.watson@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339, Monday through Friday between the hours of 8 a.m. and 8 p.m., Eastern Standard Time.

SUPPLEMENTARY INFORMATION: The Historically Black College and University Capital Financing Advisory Board (Board) is authorized by Title III, Part D, section 347 of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f). The Board is established within the Department of Education to provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on historically black college and university campuses and to advise Congress regarding the progress made in implementing the program. Specifically, the Board will provide advice as to the capital needs of Historically Black Colleges and Universities, how those needs can be met through the program, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

The purpose of this meeting is to review current program activities, provide guidance for 2008 activities, to make recommendations to the Secretary on the current capital needs of Historically Black Colleges and Universities, and to share additional steps in which the HBCU Capital Financing Program might improve its operation.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistance listening devices, or materials in alternative format) should notify Don Watson at 202 219–7037, no later than November 15, 2007. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on Friday, November 30, 2007 between 12:15 p.m.–12:45 p.m. Those members of the public interested in submitting written comments may do so by submitting them to the attention of Don E. Watson, 1990 K Street, NW., Washington DC, by Friday, November 23, 2007.

Records are kept of all Board proceedings and are available for public inspection at the Office of The Historically Black College and University Capital Financing Advisory Board (Board), 1990 K Street, NW., Washington, DC 20006, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday (EST).

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Thomas C. Dawson III,

Deputy Assistant Secretary for Higher Education Programs.

[FR Doc. E7–21803 Filed 11–5–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Family Education Loan Program

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of interest rates for the Federal Family Education Loan Program for the period July 1, 2007 through June 30, 2008.

SUMMARY: The Acting Chief Operating Officer for Federal Student Aid announces the interest rates for the period July 1, 2007 through June 30, 2008 for loans made under the Federal Family Education Loan (FFEL) Program.

FOR FURTHER INFORMATION CONTACT: Don Watson, U.S. Department of Education, Room 114I2, UCP, 400 Maryland Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 219–7037.

If you use a telecommunications device for the deaf (TDD), you may call

the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

General

Under title IV, part B of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. Section 1071, *et seq.*, most loans made to student and parent borrowers under the FFEL Program have variable interest rates.

The formulas for determining the interest on variable-rate, FFEL Program loans are established in section 427A of the HEA (20 U.S.C. 1077a).

The interest rates on variable-rate loans are determined annually and apply to the following 12-month period beginning July 1 and ending June 30.

As described below, interest rate caps apply to most FFEL Program loans.

FFEL interest rate formulas use the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held before June 1 of each year plus a statutorily established add-on to determine the variable interest rate for—

- FFEL fixed-rate Stafford loans first disbursed before October 1, 1992 that have been converted to variable-rate loans;
- All FFEL Subsidized and Unsubsidized Stafford Loans first disbursed on or after October 1, 1992 and before July 1, 2006;
- FFEL PLUS loans first disbursed on or after July 1, 1998 and before July 1, 2006; and
- FFEL Consolidation Loans for which the Consolidation Loan application was received by the lender on or after November 13, 1997 and before October 1, 1998.

The bond equivalent rate of the 91-day Treasury bills auctioned on May 29, 2007, which is used to calculate the interest rates for the one-year period beginning on July 1, 2007, is 4.919 percent, which is rounded to 4.92 percent.

For FFEL PLUS loans first disbursed before July 1, 1998, interest rates are calculated based on the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26.

The weekly average of the 1-year constant maturity Treasury yield for the last calendar week ending on or before June 26, 2007 is 4.95 percent.

Interest Rates for "Converted" Variable-Rate FFEL Stafford Loans

1. Under section 427A(i)(7) of the HEA (20 U.S.C. 1077a(i)(7)), loans that were originally made with a fixed interest rate of eight percent with an increase to ten percent four years after commencement of the repayment period were converted to a variable interest rate that may not exceed ten percent. The interest rate for these loans for the period from July 1, 2007, through June 30, 2008, is 8.17 percent (4.92 percent plus 3.25 percent).

2. Loans with fixed interest rates of seven percent, eight percent, nine percent, or eight percent with an increase to ten percent four years after commencement of the repayment period were subject to the provisions of section 427A(i)(3) of the HEA (20 U.S.C. 1077a(i)(3)) and were converted to variable-rate loans with maximum interest rates of seven percent, eight percent, nine percent, or ten percent, respectively. For loans with fixed interest rates of seven percent that were converted to variable-rate loans, the interest rate for the period from July 1, 2007, through June 30, 2008, is the maximum interest rate of 7.00 percent. Note that because 4.92 percent plus 3.1 percent equals 8.02 percent, which exceeds the maximum interest rate allowed, we use the maximum interest rate. For loans with fixed interest rates of eight percent, nine percent, or eight percent with an increase to ten percent that were converted to variable-rate loans, the interest rate for the period from July 1, 2007, through June 30, 2008, is the maximum interest rate of 8.00 percent. Note that because 4.92 percent plus 3.1 percent equals 8.02 percent, which exceeds the maximum interest rate allowed, we use the maximum interest rate.

Interest Rates for Variable-Rate FFEL Stafford Loans

1. For FFEL Stafford loans made to "new" borrowers for which the first disbursement was made (a) on or after October 1, 1992, but before July 1, 1994, or (b) on or after July 1, 1994, for a period of enrollment ending before July 1, 1994 (i.e., a late disbursement), with a maximum interest rate of nine percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.02 percent (4.92 percent plus 3.1 percent).

2. For FFEL Stafford loans made to all borrowers, regardless of prior borrowing, for periods of enrollment that include or begin on or after July 1, 1994, for which the first disbursement was made on or after July 1, 1994, but before July 1, 1995, the interest rate may not exceed 8.25 percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.02 percent (4.92 percent plus 3.1 percent).

3. For FFEL Stafford loans made to all borrowers, regardless of prior borrowing, on or after July 1, 1995, but before July 1, 1998, the interest rate may not exceed 8.25 percent.

(a) During the in-school, grace, or deferment period, the interest rate for the period from July 1, 2007, through June 30, 2008, is 7.42 percent (4.92 percent plus 2.5 percent); and

(b) During all other periods, the interest rate for the period from July 1, 2007, through June 30, 2008, is 8.02 percent (4.92 percent plus 3.1 percent).

4. For FFEL Stafford loans, first disbursed on or after July 1, 1998, but before July 1, 2006, the interest rate may not exceed 8.25 percent.

(a) During the in-school, grace, and deferment periods, the interest rate for the period from July 1, 2007, through June 30, 2008, is 6.62 percent (4.92 percent plus 1.7 percent); and

(b) During all other periods, the interest rate for the period from July 1, 2007, through June 30, 2008, is 7.22 percent (4.92 percent plus 2.3 percent).

Interest Rates for Fixed-Rate FFEL Stafford Loans

1. For FFEL Stafford loans for which the first disbursement was made on or after July 1, 2006, the interest rate is fixed at 6.80 percent.

Interest Rates for FFEL PLUS and FFEL Supplemental Loans for Students (SLS) Loans

1. For Variable-rate FFEL PLUS and FFEL SLS loans first disbursed before October 1, 1992, the interest rate may not exceed 12 percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.20 percent (4.95 percent plus 3.25 percent).

2. For FFEL SLS loans first disbursed on or after October 1, 1992, for a period of enrollment beginning before July 1, 1994, the interest rate may not exceed 11 percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.05 percent (4.95 percent plus 3.10 percent).

3. For FFEL PLUS loans first disbursed on or after October 1, 1992, but before July 1, 1994, the interest rate may not exceed ten percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.05 percent (4.95 percent plus 3.10 percent).

4. For FFEL PLUS loans first disbursed on or after July 1, 1994, but prior to July 1, 1998, the interest rate may not exceed nine percent. The interest rate for the period from July 1,

2007, through June 30, 2008, is 8.05 percent (4.95 percent plus 3.10 percent).

5. For FFEL PLUS loans first disbursed on or after July 1, 1998, and before July 1, 2006, the interest rate may not exceed nine percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.02 percent (4.92 percent plus 3.1 percent).

6. FFEL PLUS loans first disbursed on or after July 1, 2006, have an interest rate that is fixed at 8.50 percent.

Interest Rates for FFEL Consolidation Loans

1. For FFEL Consolidation loans for which the consolidation loan was made by the lender before July 1, 1994, the interest rate is the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent, but may not be less than nine percent.

2. For FFEL Consolidation loans for which the consolidation loan was made by the lender on or after July 1, 1994, and before November 13, 1997, the interest rate is the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

3. With respect to FFEL Consolidation loans for which the consolidation loan application was received by the lender on or after November 13, 1997, and before October 1, 1998, the interest rate may not exceed 8.25 percent. The interest rate for the period from July 1, 2007, through June 30, 2008, is 8.02 percent (4.92 percent plus 3.1 percent).

4. With respect to FFEL Consolidation loans for which the consolidation loan application was received by the lender on or after October 1, 1998, the interest rate may not exceed 8.25 percent. The interest rate is the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher ⅛ of one percent.

5. With respect to consolidation loans, the interest rate equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter ending prior to July 1, plus three percent. For the quarter ending before July 1, 2007, the average 91-day Treasury bill rate was 4.895 percent (rounded to 4.90 percent). The maximum interest rate for the period from July 1, 2007, through June 30, 2008, is 7.90 percent (4.90 percent plus 3.0 percent). If a portion of a Consolidation loan is attributable to a loan made under subpart I of part A of title VII of the Public Health Service Act, the maximum interest rate for that portion of the Consolidation loan is determined annually, for each 12-month period beginning on July 1 and ending on June 30.

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Program Authority: 20 U.S.C. 1077a *et seq.*

Dated: October 31, 2007.

Lawrence A. Warder,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. E7–21806 Filed 11–5–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

William D. Ford Federal Direct Loan Program

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of interest rates for the William D. Ford Federal Direct Loan Program for the period July 1, 2007 through June 30, 2008.

SUMMARY: The Acting Chief Operating Officer for Federal Student Aid announces the interest rates for the period July 1, 2007 through June 30, 2008 for loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program.

FOR FURTHER INFORMATION CONTACT: Don Watson, U.S. Department of Education, Room 114I2, UCP, 400 Maryland Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 219–7037.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Section 455(b) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1087e(b), provides formulas for determining the interest rates charged to borrowers for loans made under the Direct Loan Program including: Federal Direct Stafford Loans (Direct Subsidized Loans); Federal Direct Unsubsidized Stafford Loans (Direct Unsubsidized Loans); Federal Direct PLUS Loans (Direct PLUS Loans); and Federal Direct Consolidation Loans (Direct Consolidation Loans).

The Direct Loan Program includes loans with variable interest rates and loans with fixed interest rates. Most loans made under the Direct Loan Program have variable interest rates that change each year. The variable interest rate formula that applies to a particular loan depends on the date of the first disbursement of the loan. The variable rates are determined annually and are effective for each 12-month period beginning July 1 of one year and ending June 30 of the following year. Pursuant to section 455(b) of the HEA, 20 U.S.C. 1087e(b), the interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans that are first disbursed on or after July 1, 2006, have a fixed interest rate of 6.80 percent. Direct PLUS Loans that are first disbursed on or after July 1, 2006, have a fixed interest rate of 7.90 percent.

In the case of some Direct Consolidation Loans, the interest rate is determined by the date on which the Direct Consolidation Loan application was received. Direct Consolidation Loans for which the application was received on or after February 1, 1999 have a fixed interest rate based on the weighted average of the loans that are consolidated, rounded up to the nearest higher ⅛ of one percent.

Pursuant to section 455(b) of the HEA, 20 U.S.C. 1087e(b), the Direct Loan interest rate formulas use the bond equivalent rates of the 91-day Treasury bills at the final auction held before June 1 of each year plus a statutory add-on percentage to determine the variable interest rate for all Direct Subsidized Loans and Direct Unsubsidized Loans; Direct Consolidation Loans for which the application was received on or after July 1, 1998 and before February 1, 1999; and Direct PLUS Loans disbursed on or after July 1, 1998.

The bond equivalent rate of the 91-day Treasury bills auctioned on May 29, 2007, which is used to calculate the interest rates on these loans, is 4.919 percent, which is rounded to 4.92 percent.

In addition, pursuant to section 455(b) of the HEA, 20 U.S.C. 1087e(b), as

amended by Public Law 106–554, the Consolidated Appropriations Act, 2001, the interest rate for Direct PLUS Loans that were disbursed on or after July 1, 1994 and on or before July 1, 1998, is calculated based on the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 plus a statutory add-on percentage.

The weekly average of 1-year constant maturity Treasury yield for the last week ending on or before June 26, 2007 is 4.95 percent.

Below is specific information on the calculation of the interest rates for the Direct Loan Program. This information is listed in order by the date a loan was first disbursed or by the date that the Consolidation Application was received.

For Direct Loan Program Loans First Disbursed On or After July 1, 1994, and Before July 1, 1995

The interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans that were first disbursed on or after July 1, 1994, and before July 1, 1995, is 8.02 percent (4.92 percent plus 3.1 percent) during all periods.

The interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans is the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 plus 3.1 percent. These interest rates may not exceed 9.0 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were first disbursed on or after July 1, 1994 and before July 1, 1995, is 8.05 (4.95 percent plus 3.1 percent) percent for all periods.

For Direct Loan Program Loans First Disbursed On or After July 1, 1995, and Before July 1, 1998

The interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. However, during in-school, grace, and deferment periods, the interest rate formula is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.5 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans that were first disbursed on or after July 1, 1995, and before July 1, 1998, is 7.42 percent (4.92 percent plus 2.5 percent) during in-school, grace, and deferment periods and 8.02 percent (4.92 percent plus 3.1 percent) during all other periods.

The interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans is the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 plus 3.1 percent. These interest rates may not exceed 9.0 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were first disbursed on or after July 1, 1995 and before July 1, 1998, is 8.05 percent (4.95 percent plus 3.1 percent) during all periods.

For Direct Loans First Disbursed On or After July 1, 1998, and Before October 1, 1998

The interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. However, during in-school, grace, and deferment periods, the interest rate formula is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 1.7 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans that were first disbursed on or after July 1, 1998 and before October 1, 1998, is 6.62 percent (4.92 percent plus 1.7 percent) during in-school, grace, and deferment periods and 7.22 percent (4.92 percent plus 2.3 percent) during all other periods.

The interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. These interest rates may not exceed 9.0 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were disbursed on or after July 1, 1998, and before October 1, 1998, is 8.02 percent (4.92 percent plus 3.1 percent) during all periods.

For Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans First Disbursed On or After October 1, 1998, and Before July 1, 2006

The interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. However, during in-school, grace, and deferment periods, the interest rate formula is the bond equivalent rate of the 91-day Treasury bills plus 1.7 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans that were disbursed after July 1, 1998, and before July 1, 2006, is 6.62 percent (4.92 percent plus 1.7 percent) during in-school, grace, and deferment periods and 7.22 percent (4.92 percent plus 2.3 percent) during all other periods.

The interest rate for Direct PLUS Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. These interest rates may not exceed 9.0 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct PLUS Loans that were disbursed after July 1, 1998, and before July 1, 2006, is 8.02 percent (4.92 percent plus 3.1 percent) during all periods.

For Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans First Disbursed On or After July 1, 2006

The interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans that were first disbursed on or after July 1, 2006 is a fixed interest rate of 6.80 percent during all periods.

The interest rate for Direct PLUS Loans that were first disbursed on or after July 1, 2006 is a fixed interest rate of 7.90 percent during all periods.

For Direct Consolidation Loans First Disbursed On or After October 1, 1998 and For Which the Application Was Received Before October 1, 1998

The interest rate for Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. However, during in-school, grace, and deferment periods, the interest rate formula is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 1.7 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Subsidized and Unsubsidized Consolidation Loans that were first disbursed on or after October 1, 1998 and for which the application was received before October 1, 1998, is 6.62 percent (4.92 percent plus 1.7 percent) during in-school, grace, and deferment periods and 7.22 percent (4.92 percent plus 2.3 percent) during all other periods.

The interest rate for Direct PLUS Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. These interest rates may not exceed 9.0 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were first disbursed on or after October 1, 1998 and for which the application was received before October 1, 1998, is 8.02 percent (4.92 percent plus 3.1 percent) during all periods.

For Direct Consolidation Loans For Which the Application Was Received On or After October 1, 1998, and Before February 1, 1999

The interest rate for Direct Consolidation Loans for which the application was received on or after October 1, 1998 and before February 1, 1999 is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2007, to June 30, 2008, the interest rate for Direct Consolidation Loans for which the application was received on or after October 1, 1998 and before February 1, 1999, is 7.22 percent (4.92 percent plus 2.3 percent) during all periods.

For Direct Consolidation Loans For Which the Application Was Received On or After February 1, 1999

The interest rate for Direct Consolidation Loans for which the application was received on or after February 1, 1999, is the lesser of 8.25 percent, or the weighted average of the loans consolidated, rounded to the nearest higher ⅛ of one percent.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/federegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Program Authority: 20 U.S.C. 1087 *et seq.*.

Dated: October 31, 2007.

Lawrence A. Warder,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. E7–21807 Filed 11–5–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Guidance on Voluntary Voting System Guidelines

AGENCY: United States Election Assistance Commission.

ACTION: Notice of TGDC draft recommendations of Voluntary Voting System Guidelines and request for comments.

SUMMARY: The Help America Vote Act of 2002 (HAVA) (Pub. L. 107–252, October 29, 2002) established the U.S. Election Assistance Commission (EAC). Section 202 of HAVA directs the EAC to adopt voluntary voting system guidelines (VVSG) and to provide for the testing, certification, decertification, and recertification of voting system hardware and software. The VVSG provides specifications and standards against which voting systems can be tested to determine if they provide basic functionality, accessibility, and security capabilities. Section 221 of HAVA mandates the creation of the Technical Guidelines Development Committee (TGDC) to assist the EAC in developing its voluntary voting system guidance. The TGDC has recommended standards to the EAC. These recommended standards were submitted by the TGDC to the EAC's Executive Director pursuant to section 221 of HAVA.

As part of its development process the EAC is seeking public comment on the TGDC's recommended standards. The EAC encourages the public to offer specific and detailed comments on all aspects and sections of the requirements. The EAC is particularly interested in receiving comments on three distinct issues:

(1) The concept of Software Independence and the corresponding requirements for Independent Voter Verifiable Records and the Innovation class;

(2) Open Ended Vulnerability Testing; and

(3) the usability and accessibility benchmarks developed for this iteration of the VVSG.

All three of these concepts are new to the VVSG and could have a substantial impact on the cost of implementation and on the security and accessibility of voting systems.

DATES: Comments must be received on or before 4 p.m. on March 5, 2008.

Submission of Comments: The EAC provides two means of submission of comments: (1) On-line electronic comment form at *http://www.eac.gov,* and (2) by mail to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 1100, Washington, DC 20005. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration.

In order to allow efficient and effective review of comments the EAC requests that:

(1) Comments should refer to the specific section that is the subject of the comment.

(2) Comments regarding a term that is included or that should be added to the ''Appendix A: Definitions of Words with Special Meanings'' should reference the term, part, and section number to which the comment refers.

(3) General comments regarding the entire document or comments that refer to more than one section should be made as specifically as possible so that EAC can clearly understand to which portion(s) of the documents the comment refers.

(4) To the extent that a comment suggests a change in the wording of a

requirement or section of the guidelines, please provide proposed language for the suggested change.

To Obtain a copy of the TGDC Draft Recommendations of the Voluntary Voting System Guidelines: Due to the fact that the Voluntary Voting System Guidelines are more than 550 pages in length, the entire draft document has not been attached to this notice. A complete copy of the TGDC draft recommendations of the Voluntary Voting System Guidelines is available from the EAC in electronic format. An electronic copy can be downloaded in PDF format or read in HTML version on EAC's Web site, *http;://www.eac.gov.* In order to obtain a paper copy of the TGDC draft recommendations please mail a written request to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 1100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Matthew Masterson, Phone (202) 566–3100, e-mail *votingsystemstandards@eac.gov.*

SUPPLEMENTARY INFORMATION: Prior to the passage of HAVA, the Federal Election Commission (FEC) published the 2002 Voting System Standards (VSS). HAVA mandated that the EAC update the VSS. In December of 2005 the EAC adopted the 2005 VVSG. The 2005 VVSG used many of the same requirements as the 2002 VSS but it expanded the security, accessibility, and usability sections. On March 29, 2006, the TGDC held its first meeting to discuss the next iteration of the VVSG. Since that time, the TGDC has held numerous public meetings and subcommittee conference calls to create a set of draft guidelines for recommendation to the EAC (all TGDC meeting materials can be found at *http://www.vote.nist.gov*). On August 17, 2007, the TGDC voted to complete final edits of their recommendations and submit them to the Executive Director of the EAC. The EAC received the draft guidelines from the TGDC on August 31, 2007.

The recommended guidelines currently consist of an Introduction and three distinct Parts. The Introduction is an overview of the requirements and explanations of new or expanded materials. Part 1 contains the equipment requirements including upgraded requirements for security and new usability benchmarks for voting machines. Part 2 details the documentation requirements for both the manufacturers and the Voting System Test Laboratories (VSTL). Part 2 also includes a section on the submission of the Technical Data Package and requirements for full system user documentation. Part 3 contains the testing requirements for voting machines. This includes new material on open ended vulnerability testing and new benchmarks for performance testing. In addition to the introduction and the three parts, the guidelines contain (1) an appendix for ''definitions of words with special meaning'' specific to the requirements and (2) an appendix detailing all references and end notes.

Now that the TGDC has submitted its draft recommendations to the EAC for publication in the **Federal Register**, the EAC will begin its review and development process. This is a four phase plan:

Phase I—EAC will submit the TGDC's draft document to the **Federal Register** and provide a public comment feature on www.eac.gov. The public comment period will last for 120 days and all comments will be made available for public review. This public comment period is not required by law; however, the EAC thought it was extremely important to receive public input before proceeding with the process. During this public comment period the EAC will conduct public hearings regarding the TGDC's draft recommendations. The TGDC draft is currently available at *http://www.eac.gov.*

Phase II—EAC will collect and review all public comments submitted on the TGDC draft. After consideration of all public comments, the EAC will then perform an internal review.

Phase III—Based upon public comment and internal review of the TGDC document, the EAC will develop and publish its draft version in the **Federal Register**. The public will have another 120 days to comment on the EAC draft version. EAC will conduct public hearings to discuss its draft version.

Phase IV—EAC will collect and review all comments submitted and make final modifications. The final version of the VVSG will be adopted by vote of the Commission at a public meeting and then published in the **Federal Register**.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–5526 Filed 11–5–07; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

October 26, 2007.

Benton County Wind Farm ...	EG07–64–000
Scurry County Wind L.P.	EG07–65–000
Jeffers Wind 20, LLC	EG07–66–000
Mansfield 2007 Trust A	EG07–67–000
Mansfield 2007 Trust B	EG07–68–000
Mansfield 2007 Trust C	EG07–69–000
Mansfield 2007 Trust D	EG07–70–000
Mansfield 2007 Trust E	EG07–71–000
Mansfield 2007 Trust F	EG07–72–000
Airtricity Munnsville Wind Farm, LLC	EG07–73–000
CPV Liberty, LLC	EG07–74–000
Gas Natural BAN, S.A.	FC07–52–000
Transportista Eléctrica Centroamericana, S.A.	FC07–53–000

Take notice that during the month of September 2007, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations, with the exception of EG07–65–000, which became effective in July 2007. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21732 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–7–000]

Quicksilver Resources, Inc.; BreitBurn Operating L.P; Notice of Petition for Declaratory Order

October 26, 2007.

Take notice that on October 5, 2007, Quicksilver Resources, Inc. and BreitBurn Operating L.P. (collectively Petitioners), under Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2007), filed a petition for a declaratory order requesting that the Commission disclaim jurisdiction over certain natural gas facilities because such facilities perform a gathering function exempt from the Commission's jurisdiction under section 1(b) of the Natural Gas Act.

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 and 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 date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not 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 November 26, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21731 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QM07–5–001]

Xcel Energy Services Inc., on Behalf of Southwestern Public Service Company, Oklahoma Gas and Electric Company; American Electric Power Service Corp., on Behalf of Public Service Company of Oklahoma and Southwestern Electric Power Company; Notice of Filing

October 26, 2007.

Take notice that on October 24, 2007, Xcel Energy Services Inc., on behalf of Southwestern Public Service Company; Oklahoma Gas and Electric Company, and American Electric Power Service Corporation on behalf of Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, Applicants) filed a material amendment to their September 25, 2007 Application to Terminate the Requirement to Enter into New Contracts of Obligations with Qualifying Facilities (QFs). The amendment consists of revised Attachments E and I to the application and names additional QFs that may be potentially affected by the application.

Because the filing constitutes a material amendment to the September 25, 2007 application filed by Applicants, the 90-day period within which the Commission must act on this application begins on the date of the amended filing. The Commission will act on the application on or before January 23, 2008, unless the application is again materially amended.

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 November 21, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21734 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–8–000; CP07–8–001; CP07–8–002]

Guardian Pipeline, L.L.C; Notice of Availability of the Final Environmental Impact Statement for the Guardian Expansion and Extension Project

October 26, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Final Environmental Impact Statement (EIS) for the natural gas pipeline facilities proposed by Guardian Pipeline, L.L.C. (Guardian) under the above-referenced docket. The Guardian Expansion and Extension Project (G–II Project) would be located in various counties in eastern Wisconsin and northeastern Illinois.

The Final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Army Corps of Engineers (COE) and the Bureau of Indian Affairs (BIA) are federal cooperating agencies, and the Wisconsin Department of Natural Resources (WDNR) is the state cooperating agency for the development of this EIS. A federal cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The purpose of the G–II Project is to provide facilities necessary to provide about 537,200 decatherms per day of additional natural gas capacity to Guardian's existing pipeline system. The proposed additional capacity would facilitate the transport of natural gas to customers within the state of Wisconsin and provide those customers with the necessary infrastructure to support growth, choice, and competition within the natural gas marketplace.

The Final EIS addresses the potential environmental effects of construction and operation of the following facilities:

- 83.9 miles of 30-inch-diameter natural gas pipeline in Jefferson, Dodge, Fond du Lac, Calumet, Brown, and Outagamie Counties, Wisconsin;
- 31.3 miles of 20-inch-diameter natural gas pipeline in Brown and Outagamie Counties, Wisconsin;
- 1.4 miles of 16-inch-diameter natural gas branch line referred to as the Denmark Branch Line in Brown County, Wisconsin;
- Two 20-inch-diameter natural gas branch lines including the 1.8-mile Southwest Green Bay Branch Line in Brown County and a 0.8-mile West Green Bay Branch Line in Outagamie County, Wisconsin;
- Two new 39,000 horsepower (hp) electric-motor-driven compressor stations including the Sycamore Compressor Station located in the Sycamore Township in DeKalb County, Illinois and the Bluff Creek Compressor Station located in the Town of La Grange in Walworth County, Wisconsin;
- Modifications to the existing Ixonia Meter Station in Jefferson County, Wisconsin and the construction of seven new meter stations in the Counties of Dodge, Fond du Lac, Calumet, Brown, and Outagamie Counties, Wisconsin;
- New pig launcher/receiver facilities within Guardian's existing Ixonia Meter Station in Jefferson County, Wisconsin, within the proposed Fox Valley Meter Station in Calumet County, Wisconsin, and West Green Bay Meter Station in Outagamie County, Wisconsin; and
- Six new mainline valves (MLVs), four of which would occur along the 30-inch-diameter pipeline in the counties of Dodge, Fond du Lac, and Calumet, Wisconsin, and two which would occur along the 20-inch-diameter pipeline in Brown and Outagamie Counties, Wisconsin.

Guardian proposes to have Project construction initiated in the spring of 2008 and would be completed for a proposed in-service date of November 2008.

The Final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Final EIS are available from the Public Reference Room identified above. In addition, the Final EIS has been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project.

Additional information about the proposed Project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*). To access information via the FERC website click on the ''eLibrary'' link then click on ''General Search'' and enter the docket number (CP07–8) excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. The ''eLibrary'' link provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. For assistance with ''eLibrary'', please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to these documents. To learn more about eSubscription and to sign-up for this service please go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21730 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199–205]

Santee Cooper Hydroelectric Project; Notice of Availability of the Final Environmental Impact Statement for the Santee Cooper Hydroelectric Project

October 26, 2007.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR)(18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects staff (staff) reviewed the application for a New Major License for the Santee Cooper Hydroelectric Project, and have prepared a final environmental impact statement (FEIS) for the project which is located on the Santee and Cooper Rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumpter Counties, South Carolina.

The FEIS contains staff's analysis of the applicant's proposal and the alternatives for relicensing the Santee Cooper Hydroelectric Project. The FEIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

The FEIS will be part of the record from which the Commission will make its decision.

A copy of the FEIS is available for review at the Commission's Public Reference Room (Room 2A, located at 888 First Street, NE., Washington, DC 20426) or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''e-Library'' link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

CD versions of the FEIS have been mailed to everyone on the mailing list for the project. Copies of the CD, as well as a limited number of paper copies, are available from the Public Reference Room identified above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, please contact Monte TerHaar at (202) 502–6035 or at *monte.terhaar@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21733 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–448–000]

El Paso Natural Gas Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed Picacho Compressor Station Project and Request for Comments on Environmental Issues

October 26, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Picacho Compressor Station Project involving construction and operation of natural gas pipeline facilities by El Paso Natural Gas Company (El Paso) in Pinal County, Arizona. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on November 26, 2007. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to affected landowners; Federal, State, and local government agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

El Paso proposes to install three gas-fired compressor units totaling 8,290 horsepower at the new Picacho Compressor Station in Pinal County, Arizona. The proposed project would provide up to 372,500 dekatherms per day of gas to interconnects with Transwestern Pipeline Company, LLC's proposed Phoenix Expansion (Docket No. CP06–459–000) and El Paso's existing pipeline system.

The proposed compressor station would be located along El Paso's Line 20120 in an 8-acre parcel owned by El Paso. The parcel is also the current location of El Paso's Line 20120 pigging facilities. El Paso indicates that additional workspace would not be required outside of the 8-acre parcel, and an existing public road would be utilized for access to the construction area.

The general location of the proposed facilities is shown in Appendix 1[1].

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impact that could result if it authorizes El Paso's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use and visual quality.
- Cultural resources.
- Vegetation and wildlife (including threatened and endangered species).
- Air quality and noise.
- Reliability and safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, where necessary, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal including alternative compressor station sites, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberley D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;
- Reference Docket No. CP07–448–000; and
- Mail your comments so that they will be received in Washington, DC on or before November 26, 2007.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room at (202) 502–8371. For instructios on connecting to eLibrary, refer to the ''Additional Information'' section at the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to El Paso.

[2] ''We,'' ''us,'' and ''our '' refer to the environmental staff of the FERC's Office of Energy Projects.

385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

As described above, we may mail the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding.

If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2) [3]. Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21735 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

October 26, 2007.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are 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, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Date received	Presenter or requester
Prohibited:		
1. P–11858–000	10–24–07	Ms. Johanna E. Howard.

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Docket No.	Date received	Presenter or requester
Exempt:		
1. CP07–35–000, CP07–36–000, CP07–37–000, CP07–38–000	10–24–07	Dan Pritchard.
2. CP07–62–000	10–15–07	Joe La Bissonniere.
3. RP07–425–000	10–16–07	Kathleen Sebelius.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21729 Filed 11–5–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–1010; FRL–8492–5]

Board of Scientific Counselors, Technology for Sustainability Subcommittee Meeting—December 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Technology for Sustainability Subcommittee.

DATES: The meeting (via teleconference call) will be held on Tuesday, December 11, 2007 from 3 p.m. to 5 p.m. All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Clois Slocum, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–1010, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov*, Attention Docket ID No. EPA–HQ–ORD–2006–1010.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2006–1010.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Technology for Sustainability Subcommittee Meetings—Winter/Spring 2007 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2006–1010.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW.,Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2006–1010. Note: this is not a mailing 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–HQ–ORD–2006–1010. 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.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Technology for Sustainability Subcommittee Meetings—Winter/Spring 2007 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Clois Slocum, USEPA, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; via phone/voice mail at: (513) 569–7281; via fax at: (513) 569–7549; or via e-mail at: *slocum.clois@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Clois Slocum, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meeting include but are not limited to: The discussion of the draft report per BOSC Executive Committee review comments. The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Clois Slocum (513) 569–7281 or *slocum.clois@epa.gov.* To request accommodation of a disability, please contact Clois Slocum, preferably at least 10 days prior to the meeting, to give

EPA as much time as possible to process your request.

Dated: October 31, 2007.

Jeff Morris,

Acting Director, Office of Science Policy.

[FR Doc. E7–21795 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2007–1053; FRL–8492–6]

Board of Scientific Counselors, National Exposure Research Laboratory (NERL) Standing Subcommittee Meeting—2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) National Exposure Research Laboratory (NERL) Standing Subcommittee.

DATES: The meeting (a teleconference call) will be held on Wednesday, November 28, 2007 from 2 p.m. to 4 p.m. All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the conference call will be accepted up to 1 business day before the meeting.

ADDRESSES: Participation in the meeting will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Susan Peterson, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–1053, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov*, Attention Docket ID No. EPA–HQ–ORD–2007–1053.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2007–1053.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, National Exposure Research Laboratory (NERL) Standing Subcommittee—2007 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2007–1053.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2007–1053. Note: this is not a mailing 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–HQ–ORD–2007–1053. 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.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors, National Exposure Research Laboratory (NERL) Standing Subcommittee—2007 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Susan Peterson, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–1077; via fax at: (202) 565–2911; or via email at: *peterson.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

General Information

Participation in the meeting will be by teleconference only—meeting rooms will not be used. Members of the public who wish to obtain the call-in number and access code to participate in the conference call may contact Susan Peterson, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above, by 4 working days prior to the conference call.

The purpose of the meeting is to provide the subcommittee with background information on the Office of Research and Development (ORD) and one of ORD's Laboratories, the National Exposure Research Laboratory (NERL). Proposed agenda items for the conference call include, but are not limited to: overview of subcommittee objectives, overview of ORD, overview of NERL, and discussion of the charge to subcommittee. The conference call is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Susan Peterson at (202) 564–1077 or *peterson.susan@epa.gov*. To request accommodation of a disability, please contact Susan Peterson, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: October 31, 2007.

Jeff Morris,

Acting Director, Office of Science Policy.

[FR Doc. E7–21797 Filed 11–5–07; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

Date and Time: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 8, 2007, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- October 11, 2007.

B. New Business

- Final Rule—12 CFR Part 620—Annual Report to Shareholders.

C. Reports

- Office of Management Services Quarterly Report.

Dated: November 2, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 07–5584 Filed 11–2–07; 3:21 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 07–4336]

Notice of Suspension and Initiation of Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') gives notice of Mr. Arthur R. Scott's suspension from the schools and libraries universal service support mechanism (or ''E-Rate Program''). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Scott, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554.

DATES: Opposition requests must be received by December 6, 2007. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or December 6, 2007, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418–0843 or e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.521 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 07–4336, which was mailed to Mr. Scott and released on October 18, 2007. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY-B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

The suspension letter follows:

October 18, 2007
DA 07–4336
VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND FACSIMILE (404–872–1622)

Mr. Arthur R. Scott, c/o Seth D. Kirschenbaum, Esq., Davis Zipperman Kirschenbaum & Lotito, 918 Ponce de Leon Avenue, NE., Atlanta, GA 30306–4212, E-Mail: *skirschenbaum@dzkl.com.*

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–07–IH–7304

Dear Mr. Scott:

The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction for conspiracy to defraud the United States and bribery in violation of 18 U.S.C. 371 and 666(a)(1)(B) in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[1] Consequently, pursuant to 47 CFR 54.521, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[2]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[3] You pled guilty to conspiracy to defraud the United States and bribery for activities in connection with your participation in the E-Rate program.[4] You admitted that while employed

[1] Any further reference in this letter to ''your conviction'' refers to your May 2, 2007 guilty plea and subsequent conviction of one count of conspiracy to defraud the United States and one count of bribery. *United States* v. *Arthur R. Scott,* Criminal Docket No. 1:07–CR–139–CC–01, Plea Agreement (N.D.Ga. filed May 2, 2007 and entered May 7, 2007) (''*Scott Plea Agreement*''); *United States* v. *Arthur R. Scott,* 1:07–CR–139–CC–01, Judgment (N.D.Ga. filed and entered Oct. 2, 2007) (''*Scott Judgment*'').

[2] 47 CFR 54.521; 47 CFR 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 CFR 54.521).

[3] *See Schools and Libraries Universal Service Support Mechanism,* Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225, ¶ 66 (2003) (''*Second Report and Order*''). The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.521(a)(6).

[4] *See generally United States* v. *Arthur R. Scott and Evelyn Myers Scott a/k/a Evelyn M. Myers,*

Continued

as Director of Operational Technology of the Atlanta Public Schools (''APS''), you conspired with others, including your wife Evelyn Myers Scott (''Myers Scott''), to enter into an E-Rate contract on behalf of APS in return for payments to the consulting firm owned by you and Myers Scott from the vendor.[5] In addition, you admitted that you, as agent of APS, corruptly solicited, demanded, accepted and agreed to accept $37,917 in order to be influenced and rewarded in connection with APS's participation in the E-Rate program. The loss and the restitution that you owed to the E-Rate program resulting from the criminal offenses was $300,176.10.[6]

Pursuant to section 54.521(a)(4) of the Commission's rules,[7] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[8] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[9]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[10] Such requests, however, will not ordinarily be granted.[11] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[12] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[13]

II. Initiation of Debarment Proceedings

Your guilty plea to criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's rules.[14] Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[15] Absent extraordinary circumstances, the Bureau will debar you.[16] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[17] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[18]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[19] The Bureau may, if necessary to protect the public interest, extend the debarment period.[20]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov*.

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov*. If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov*.

Sincerely yours,

Hillary S. DeNigro,
Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail) Aaron M. Danzig, Esq., Assistant United States Attorney

[FR Doc. E7–21750 Filed 11–5–07; 8:45 am]

BILLING CODE 6712–01–P

Criminal Docket No. 1:07–CR–139, Information (N.D.Ga.. filed Apr. 30, 2007 and entered May 3, 2007) (''*Scott and Myers Scott Information*''); *Scott Plea Agreement at 1.*

[5] *Scott and Myers Scott Information* at 1–9. *See also* Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, to Evelyn M. Scott, DA 07–4335, dated October 18, 2007.

[6] *See Scott Judgment* at 5; *see also Scott Plea Agreement at 4.*

[7] 47 CFR 54.521(a)(4). *See Second Report and Order,* 18 FCC Rcd at 9225–9227, ¶ ¶ 67–74 (2003).

[8] *Second Report and Order,* 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. 254; 47 CFR 54.502–54.503; 47 CFR 54.521(a)(4).

[9] *Second Report and Order,* 18 FCC Rcd at 9226, ¶ 69; 47 CFR 54.521(e)(1).

[10] *Second Report and Order,* 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.521(e)(4).

[11] *Second Report and Order,* 18 FCC Rcd at 9226, ¶ 70.

[12] 47 CFR 54.521(e)(5).

[13] *See Second Report and Order,* 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.521(e)(5), 54.521(f).

[14] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism.'' 47 CFR 54.521(c). Such activities ''include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding schools and libraries support mechanism described in this section ([47 CFR] 54.500 *et seq.*).'' 47 CFR 54.521(a)(1).

[15] *See Second Report and Order,* 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.521(e)(2)(i), 54.521(e)(3).

[16] *Second Report and Order,* 18 FCC Rcd at 9227, ¶ 74.

[17] *See id.,* 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.521(e)(5).

[18] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.521(f).

[19] *Second Report and Order,* 18 FCC Rcd at 9225, ¶ 67; 47 CFR 54.521(d), 54.521(g).

[20] *Id.*

FEDERAL COMMUNICATIONS COMMISSION

Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95–454), Chairman Kevin J. Martin appointed the following executives to the Performance Review Board (PRB): Dana Shaffer, Michelle Carey, and Monica Desai.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21794 Filed 11–5–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2007–22]

Filing Dates for the Virginia Special Election in the 1st Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Virginia has scheduled a special general election on December 11, 2007, to fill the U.S. House of Representatives seat in the First Congressional District vacated by the late Representative Jo Ann Davis.

Committees participating in the Virginia Special General Election on December 11, 2007, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Virginia Special General Election shall file a 12-day Pre-General Report on November 29, 2007; and a consolidated 30-day Post-General and Year-End Report on January 10, 2008. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semiannual basis in 2007 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Virginia Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Virginia Special General Election must continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Virginia Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml*.

CALENDAR OF REPORTING DATES FOR VIRGINIA SPECIAL ELECTION

[Committees Involved in the Special General (12/11/07), Must File]

Report	Close of books [1]	Reg./Cert. & Overnight mailing deadline	Filing deadline
Pre-General	11/21/07	11/26/07	11/29/07
Post-General & Year-End [2]	12/31/07	01/10/08	01/10/08

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Committees must file a consolidated Post-General and Year-End Report by the filing date of the Post-General Report.

Dated: November 1, 2007.

David M. Mason,

Vice Chairman, Federal Election Commission.

[FR Doc. E7–21819 Filed 11–5–07; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 21, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. The 2007 Voting Trust Agreement, and its trustees, Albert Charles Kelly, Jr. and Peter John Kelly, both of Bristow, Oklahoma; Shawn Trevor Kelly, Edmond, Oklahoma; Paul Harrison Cornell, Tulsa, Oklahoma; and Allison Asbury Kelly, Okemah, Oklahoma, all to acquire voting shares of Citizens Bankshares, Inc., and thereby indirectly acquire voting shares of Citizens State Bank, both of Okemah, Oklahoma.

Board of Governors of the Federal Reserve System, November 1, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–21752 Filed 11–5–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director,

Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Palomar Enterprises, LLC; to become a bank holding company by acquiring 18.3 percent of the voting shares of Farmers & Merchants Bank of Long Beach, both of Long Beach, California.

Board of Governors of the Federal Reserve System, November 1, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–21753 Filed 11–5–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Genetics, Health, and Society

AGENCY: Office of the Secretary, HHS.

ACTION: Request for public comment on a draft report on the oversight of genetic testing.

SUMMARY: The Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS) is requesting public comment on a draft report on the oversight of genetic testing.

DATES: Written or electronic comments should be submitted between November 5, 2007 and December 21, 2007.

ADDRESSES: Comments should be e-mailed to SACGHS in care of Cathy Fomous, PhD, at *cfomous@od.nih.gov.* Comments can also be mailed or faxed to Dr. Fomous's attention at the NIH Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 700, Bethesda, MD, 20892 or fax number 301–496–9839.

FOR FURTHER INFORMATION CONTACT: Cathy Fomous, PhD, NIH Office of Biotechnology Activities, at *cfomous@od.nih.gov* or 6705 Rockledge Drive, Suite 700, Bethesda, MD 20892, 301–496–9838.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) established SACGHS to serve as a public forum for deliberations on the broad range of policy issues raised by the development and use of genetic technologies and, as warranted, to provide advice on these issues. For more information about the Committee, please visit the Web site: *http://www4.od.nih.gov/oba/sacghs.htm.*

In 2004, SACGHS recognized that oversight of genetic testing was a high-priority issue that required ongoing monitoring. In 2006, SACGHS began an in-depth fact-finding process on the oversight roles of Federal, State, and private sector entities. In March 2007, the Office of the Secretary of HHS outlined a specific charge to SACGHS to focus the Committee's inquiry. The charge reads as follows:

Undertake the development of a comprehensive map of the steps needed for evidence development and oversight for genetic and genomic tests, with improvement of health quality as the primary goal. Consider and address the following questions:

- What evidence of harm exists regarding genetic tests? Is that harm attributable to analytic validity, clinical validity, or clinical utility of the tests? If evidence does not exist, what threats are not currently being addressed? What public health benefits are not accruing as quickly as they might?
- What distinguishes genetic tests from other laboratory tests for oversight purposes?
- What are the existing pathways that examine the analytic validity, clinical validity, and clinical utility of genetic tests? Consider the use of case studies.
- What organizations are currently involved with each of these aspects, and what are they doing to address these issues? Who should be responsible for each of these aspects?
- What resources (e.g., standards reagents/materials) are needed to develop proficiency testing kits or protocols for genetic tests? What is currently available in terms of proficiency testing kits or protocols for genetic tests? What information is provided by proficiency testing? Is the current level of proficiency testing for genetic tests adequate and are the results of such laboratory performance assessments sufficiently transparent?
- What are the potential pathways to communicate clear information to guide test and treatment selection by the provider?
- What new approaches or models should be considered for private and public-private sector engagement in demonstrating clinical validity and clinical utility for developing effectiveness measures of genetic tests in clinical practice?
- Would additional or revised Government oversight add value for patients, and if so, how and where?

SACGHS organized a task force to explore the questions outlined in the Secretary's charge and gather facts and perspectives on how best to address them. With the help of the task force, SACGHS drafted a report that addresses the issues and offers a number of recommendations for enhancing the oversight of genetic testing in the U.S. A copy of the draft report, *U.S. System of Oversight of Genetic Testing: A Response to the Charge of the Secretary of HHS,* will be available from November 5, 2007 to December 21, 2007 at *http://www4.od.nih.gov/oba/sacghs/public_comments.htm.* A paper or electronic copy also can be obtained through the NIH Office of Biotechnology Activities at 301–496–9838 or by e-mailing Dr. Fomous at *cfomous@od.nih.gov.*

SACGHS would welcome comments on any aspect of the report. In particular, SACGHS would appreciate input on whether the draft report: (1) Fully responds to questions posed by the HHS Secretary; (2) proposes appropriate remedies to close gaps in the current system; and (3) adequately anticipates future developments in the field of genetics/genomics that may bear on the oversight of genetic testing. In addition to submitting written comments, the public will have an opportunity at the SACGHS meeting on November 19–20, 2007 to provide testimony on this topic. The meeting is being held at the Ronald Reagan Building, Washington, DC (see *http://www4.od.nih.gov/oba/SACGHS/SACGhsMTGIndex.HTM* for a meeting agenda). All comments received by December 21, 2007 will be considered by SACGHS in preparing its final draft report. Public comments will be available for public inspection at the NIH Office of Biotechnology Activities Monday through Friday between the hours of 8:30 a.m. and 5 p.m.

Dated: October 29, 2007.

Sarah Carr,

Executive Secretary, SACGHS.

[FR Doc. E7–21755 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: OCSE–100, State Plan Preprint Page; OCSE–21–U4, State Plan Transmittal.

OMB No.: 0970–0017.

Description: Section 7310 of the Deficit Reduction Act of 2005, titled, *Mandatory Fee for Successful Child Support Collection for a Family That Has Never Received TANF,* amends Section 454(6) of the Social Security Act (the Act) such that a State child support plan must provide for the imposition of an annual fee of $25 in each case in which an individual has never received assistance under a State program funded under title IV–A of the Act and for whom the State has collected at least $500 of support. States will need to submit the new State plan preprint page, i.e., page 2.5–4, as well as a transmittal for the preprint page, in order to have an approved State plan.

The 60-day notice for this requirement was originally published in the Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on January 24, 2007 (72 FR 3093); however, because of the October 1, 2006, effective date for the mandate that States implement and collect a $25 annual fee in specified cases, the second notice for the State plan preprint page must be published prior to the publication of the final rule.

Respondents: State IV-D agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Plan (OCSE–100)	54	1	.25	13.5
State Plan Transmittal (OCSE–21–U4)	54	1	.25	13.5

Estimated Total Annual Burden Hours: 27.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5487 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Tribal TANF (Temporary Assistance for Needy Families) Financial Report, Form ACF–196T.

OMB No. New Collection.

Description: Tribes use Form ACF–196T to report expenditures for the Tribal TANF grant. Authority to collect and report this information is found in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193. Tribal entities with approved Tribal plans for implementation of the TANF program are required by Section 412(h) of the Social Security Act to report financial data. Form ACF–196T provides for the collection of data regarding Federal expenditures. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. Financial management of the program would be seriously compromised if the expenditure data were not collected.

45 CFR Part 286 Subpart E requires the strictest controls on funding requirements, which necessities review of documentation in support of Tribal expenditures for reimbursement. Comments received from previous efforts to implement a similar Tribal TANF report Form ACF–196T were used to guide ACF in the development of the product presented with this submittal.

Respondents: All Tribal TANF Agencies

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196T	56	4	8	1,792

Estimated Total Annual Burden Hours: 1,792.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5488 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Application Requirements for the Low Income Home Energy Assistance Program (LIHEAP) Residential Energy Assistance Challenge Program (REACH) Model Plan.

OMB No. New Collection.

Description: States, including the District of Columbia, Tribes, Tribal organizations and Territories applying for LIHEAP REACH funds must submit an annual application prior to receiving Federal funds. The Human Services Amendments of 1994 (Pub. L. 103–252) amended the LIHEAP statute to add Section 2607B, which established the REACH Program. REACH was funded for the first time in FY 1996 and is intended to: (1) Minimize health and safety risks that result from high energy burdens on low-income Americans; (2) reduce home energy vulnerability and prevent homelessness as a result of the inability to pay energy bills; (3) increase the efficiency of energy usage by low-income families, helping them achieve energy self-sufficiency; and (4) target energy assistance to individuals who are most in need.

The REACH Model Plan clarifies the information being requested and ensures the submission of all the information required by statute. The form facilitates our response to numerous queries each year concerning the information that should be included in the REACH application. Submission of a REACH application and use of the REACH Model Plan is voluntary. Grantees have the option to use another format.

Respondents: State Governments, Tribal governments, Insular Areas, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
REACH Model Plan	51	1	72	3,672

Estimated Total Annual Burden Hours: 3,672.

In compliance with the requirements of Section 356(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5489 Filed 11–1–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Children's Justice Act Program (CJA).

OMB No.: 0980–0196.

Description: The Program Instruction, prepared in response to the enactment of the Children's Justice Act (CJA), as set forth in Title II of Public Law 108–36, Child Abuse Prevention and Treatment Act Amendments of 2003, provides direction to the States and Territories to accomplish the purposes of assisting States in developing, establishing and operating programs designed to improve: (1) The handling of child abuse and neglect cases, particularly child sexual abuse and exploitation, in a manner that limits additional trauma to the child victim; (2) the handling of cases of suspected child abuse or neglect-related fatalities; (3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation; and (4) the handling of cases involving children with disabilities or serious health-related problems who are victims of abuse and neglect. This Program Instruction contains information collection requirements that are found in Pub. L. 108–36 at Sections 107(b) and 107(d), and pursuant to receiving a grant award. The information being collected is required by statute to be submitted pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute; to monitor, evaluate and measure grantee achievements in addressing the investigation and prosecution of child abuse and neglect; and to report to Congress.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses	Average burden hours per response	Total burden hours
Application	52	1	40	2,080

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses	Average burden hours per response	Total burden hours
Annual Report	52	1	20	1,040

Estimated Total Annual Burden Hours: 3,120.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5490 Filed 11–1–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Court Improvement Program New Grants.

OMB No. 0970–0307.

Description: The President signed the Deficit Reduction Act of 2005, Public Law 109–171, into law on February 8, 2006. The law authorizes and appropriates funds for two new grants under the Court Improvement Program in title IV–B, section 438 of the Social Security Act. The highest State court in a State with an approved title IV–E plan is eligible to apply for either or both of the new grants. The new grants are for the purposes of: (1) Ensuring that the needs of children are met in a timely and complete manner through improved case tracking and analysis of child welfare cases; and (2) training judges, attorneys, and other legal personnel in child welfare cases; and conducting cross-training with child welfare agency staff and contractors.

The statute requires separate applications for these two new grants. The annual burden estimates below describe the estimated burden for the two new grants. ACF collects information from the States about their work under these grants (applications, program reports) by way of a Program Instruction issued on June 15, 2006.

This Program Instruction describes the programmatic and fiscal provisions and reporting requirements for each of the grants, specifies the application submittal and approval procedures for the grants for fiscal years 2006 through 2010, and identifies technical resources for use by State courts during the course of the grants. The agency uses the information received to ensure compliance with the statute and provide training and technical assistance to the grantees.

Respondents: State Courts.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	2	40	4,160
Annual Program Report	52	2	36	3,744

Estimated Total Annual Burden Hours: 7904.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5491 Filed 11–1–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Community-Based Child Abuse Prevention Program (CBCAP).

OMB No.: 0970–0155.

Description: The Program Instruction, prepared in response to the enactment of the Community-Based Grants for the Prevention of Child Abuse and Neglect (administratively known as the Community-Based Child Abuse Prevention Program (CBCAP)), as set forth in Title II of Public Law 108–36, Child Abuse Prevention and Treatment Act Amendments of 2003, provides direction to the States and Territories to accomplish the purposes of (1) supporting community-based efforts to develop, operate, expand, and where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the incidence of child abuse and neglect; and (2) fostering an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect. This Program Instruction contains information collection requirements that are found in Public Law 108–36 at Sections 201, 202, 203, 205, 206, 207, and pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, and provide training and technical assistance to the grantee.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Averge burden hours per response	Total burden hours
Application	52	1	40	2,080
Annual Report	52	1	24	1,248

Estimated Total Annual Burden Hours: 3,328.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 30, 2007.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 07–5492 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Provision of Services in Interstate Child Support Enforcement: Standard Forms.

OMB No.: 0970–0085.

Description: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amended 42 USC 666 to require State and Territory Child Support Enforcement (CSE) IV–D agencies to enact the Uniform Interstate Family Support Act (UIFSA) into State and Territory law by January 1, 1998. Section 311(b) of UIFSA requires States and Territories to use standard interstate forms. 45 CFR 303.7 also requires CSE IV–D agencies to transmit child support case information on standard interstate forms when referring cases to other States and Territories for processing. These forms are expiring in January 2008 and the Administration for Children and Families is taking this opportunity to make some revisions as requested by States and Territories during the 60–day comment period.

Respondents: State and Territory agencies administering the Child Support Enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Transmittal 1	54	19,278	.25	260,253
Transmittal 2	54	14,458	.08	62,459
Transmittal 3	54	964	.08	4,164
Uniform Petition	54	9,639	.08	41,640
General Testimony	54	11,567	.33	206,124

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Affidavit-Paternity	54	4,819	.17	44,238
Locate Data Sheet	54	375	.08	1,620
Notice of Controlling Order	54	964	.08	4,164
Registration Statement	54	8,675	.08	37,476

Estimated Total Annual Burden Hours: 662,138.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fas: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5493 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Guidance for the Tribal Temporary Assistance for Needy Families (TANF) Program.

OMB No.: 0970–0157.

Description: 42 U.S.C. 612 (Section 412 of the Social Security Act) requires each Indian Tribe that elects to administer and operate a TANF program to submit a TANF Tribal Plan. The TANF Tribal Plan is a mandatory statement submitted to the Secretary by the Indian Tribe, which consists of an outline of how the Indian Tribe's TANF program will be administered and operated. It is used by the Secretary to determine whether the plan is approvable and to determine that the Indian Tribe is eligible to receive a TANF assistance grant. It is also made available to the public.

The Administration for Children and Families (ACF) is proposing to revise the guidance by adding a certification page and is requesting additional details regarding economic development. ACF expects the additional information to add an estimated eight burden hours to each Indian Tribe's submission. This is reflected in the annual burden estimates shown below.

Respondents: Indian Tribes applying to operate a TANF program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Request for State Data Needed to Determine the Amount of a Tribal Family Assistance Grant	20	1	68	1,360

Estimated Total Annual Burden Hours: 1,360.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5494 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Project 1099.

OMB No.: 0970–0183.

Description: A voluntary program which provides State Child Support Enforcement agencies, upon their request, access to the earned and unearned income information reported to IRS by employers and financial institutions. The IRS 1099 information is used to locate noncustodial parents and to verify income and employment.

Respondents: State IV–D programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
1099 Record Specifications	54	12	1.96	1,270
IRS Safeguarding Certification Letter	54	1	.48	26

Estimated Total Annual Burden Hours: 1,296.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically request comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5495 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program (LIHEAP) Carryover and Reallotment Report.

OMB No.: 0970–0106.

Description: The LIHEAP statute and regulations require LIHEAP grantees to report certain information to HHS concerning funds forwarded and funds subject to reallotment. The 1994 reauthorization of the LIHEAP statute, the Human Service Amendments of 1994 (Pub. L. 103–252), requires that the Carryover and Reallotment Report for one fiscal year be submitted to HHS by the grantee before the allotment for the next fiscal year may be awarded.

The Administration for Children and Families is requesting no changes in the collection of data with the Carryover and Reallotment Report for FY 2007, a form for the collection of data, and the Simplified Instructions for Timely Obligations of FY 2007 LIHEAP Funds and Reporting Funds for Carryover and Reallotment. The form clarifies the information being requested and ensures the submission of all the required information. The form facilitates our response to numerous queries each year concerning the amounts of obligated funds. Use of the form is voluntary. Grantees have the option to use another format.

Respondents: State Governments, Tribal Governments, Insular Areas, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Carryover and Reallotment	192	1	3	576

Estimated Total Annual Burden Hours: 576.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5496 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Medical Support Notice.

OMB No.: 0970–0222.

Description: The information collected by State IV–D Child Support Enforcement agencies is used to complete the National Medical Support Notice (NMSN), which is sent to employers of employee/obligors and used as a means of enforcing the health

care coverage provision in a child support order. Primarily, the information the State Child Support Enforcement agencies use to complete the NMSN is information regarding appropriate persons, which is necessary for the enrollment of the child in employment-related health care coverage, such as the employee/obligor's name, address, and Social Security Number; the employer's name and address; the name and address of the alternate recipient (child); and the custodial parent's name and address. The employer forwards the second part of the NMSN to the group health plan administrator, which contains the same individual identifying information. The plan administrator requires this information to determine whether to enroll the alternate recipient in the group health plan. If necessary, the employer also initiates withholding from the employee's wages for the purpose of paying premiums to the group health plan for enrollment of the child.

Respondents: State and Territory agencies administering the child Support Enforcement program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
National Medical Support Notice	54	97,775	.17	897,575

Estimated Total Annual Burden Hours: 897,575.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5497 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: April 2006 Current Population Survey Supplement on Child Support.

OMB No.: 0992–0003.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and Households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Support Survey	41,300	1	.0241666	998
Estimated Total Annual Burden Hours				998

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: October 30, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5498 Filed 11–5–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 29 and 30, 2007, from 8 a.m. to 6 p.m.

Location: Gaithersburg Holiday Inn, Ballroom, 2 Montgomery Village Ave., Gaithersburg, MD.

Contact Person: James Swink, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4179, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512625. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On November 29, 2007, the committee will discuss, make recommendations, and vote on a premarket approval application, sponsored by Abbott Vascular, for the XIENCE V Everolimus Eluting Coronary Stent System, which is indicated for improving coronary luminal diameter in patients with symptomatic heart disease due to de novo native coronary artery lesions (length = 28 millimeters (mm)) with reference vessel diameter of 2.5 mm to 4 mm.

On November 30, 2007, the committee will discuss, make recommendations, and vote on a premarket approval application, sponsored by Thoratec Corp., for the HeartMate II Left Ventricular Assist System (LVAS), which is intended for use as a bridge to transplantation in cardiac transplant candidates at risk of imminent death from non-reversible left ventricular failure. The HeartMate II LVAS is intended for use both inside and outside the hospital.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 15, 2007. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations on each day and for approximately 30 minutes near the end of the deliberations on each day. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 7, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 8, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–8932, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 31, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–21779 Filed 11–5–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30-Day Proposed Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 350(c)(2)(A) of the Paperwork Reduction Act of 1995 which requires 30 days for public comment on proposed information collection projects, the Indian Health Service (IHS) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection project was previously published in the **Federal Register** (72 FR 45054) on August 10, 2007 and allowed 60 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: 0917–0006, ''Application for Participation in the IHS Scholarship Program.'' *Type of Information Collection Request:* Previously Approved Collection. *Form Number(s):* IHS–856, 856–2 through 856–8, IHS–815, IHS–816, IHS–817, IHS–818, D–02, F–02, F–04, G–02, G–04, H–07, H–08, J–04, J–05, K–03, K–04, and L–03. Reporting formats are contained in an IHS Scholarship Program application booklet. *Need and Use of Information Collection:* This IHS Scholarship Branch needs this information for program administration and uses the information to solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions

Scholarship grants and monitor the academic performance of awardees, to place awardees at payback sites. The IHS Scholarship Program plans to streamline the application to reduce the time needed by applicants to complete and provide the information. The IHS Scholarship Program plans to use information technology to make the application electronically available on the internet have been delayed. *Affected Public:* Individuals, non-for-profit institutes and State, local or Tribal Government. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hour(s).

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response *	Annual burden hours
Scholarship Application (IHS–856)	1500	1	1500	1.00 (60 min)	1500
Checklist (856–2)	1500	1	1500	0.13 (8 min)	195
Course Verification (856–3)	1500	1	1500	0.70 (42 min)	1050
Faculty/Employer Application (856–4)	1500	2	3000	0.83 (50 min)	2490
Justification (856–5)	1500	1	1500	0.75 (45 min)	1125
Federal Debt (856–6)	1500	1	1500	0.13 (8 min)	195
Job Experience only (856–7)	25	1	25	0.83 (50 min)	21
Accept/Decline (856–8)	650	1	650	0.13 (8 min)	84
Receipt of Application (815)	1500	1	1500	0.03 (2 min)	45
Address Change Notice (816)	25	1	25	0.02 (1 min)	25
Scholarship Program Agreement (817)	850	1	850	0.05 (3 min)	43
Stipend Checks (D–02)	100	1	100	0.13 (8 min)	13
Enrollment (F–02)	1300	1	1300	0.13 (8 min)	169
Academic Problem/Change (F–04)	50	1	50	0.13 (8 min)	6
Request Assistance (G–02)	217	1	217	0.13 (8 min)	28
Summer School (G–04)	193	1	193	0.10 (6 min)	19
Health Professions Contract (818)	850	1	850	0.05 (3 min)	33
Placement (H–07)	250	1	250	0.18 (11 min)	45
Graduation (H–08)	250	1	250	0.17 (10 min)	43
Site Preference (J–04)	150	1	150	0.13 (8 min)	20
Travel Reimb (J–05)	150	1	150	0.10 (6 min)	15
Status Report (K–03)	250	1	250	0.25 (15 min)	63
Preferred Assignment (K–04)	200	1	200	0.75 (45 min)	150
Request of Deferment (L–03)	20	1	20	0.13 (8 min)	3
Total	15,830				7,380

* For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimates are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, *Attention:* Desk Officer for IHS.

To request more information on the proposed collection or to obtain a copy of the data collection instrument(s) and/or instruction(s) contact: Mrs. Chris Rouleau, IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601; call non-toll free (301) 443–5938; send via facsimile to (301) 443–2316; or send your e-mail requests, comments, and return address to: *Christina.Rouleau@ihs.gov*.

Comment Due Date: Comments regarding this information collection are best assured of having full effect if received within 30 day of the date of this publication.

Dated: October 29, 2007.

Robert G. McSwain,

Acting Director, Indian Health Service.

[FR Doc. 07–5520 Filed 11–5–07; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The Framingham Study

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: The Framingham Study. *Type of Information Request:* Revision (OMB No. 0925–0216). *Need and Use of Information Collection:* The Framingham Study will conduct examinations and morbidity and mortality follow-up in original, offspring, and third generation participants for the purpose of studying the determinants of cardiovascular disease. *Frequency of response:* The

participants will be contacted annually. *Affected public:* Individuals or households; businesses or other for profit; small businesses or organizations. *Types of Respondents:* Adult men and women; doctors and staff of hospitals and nursing homes. The annual reporting burden is as follows: *Estimated Number of Respondents:* 6,000 *and Estimated Total Annual Burden Hours Requested:* 9,900.

There are no capital, operating, or maintenance costs to report.

Type of respondents	Estimated number of respondents	Average burden hours per respondent	Estimated total annual burden hours requested
Participants	3,600	2.5	9,000
Physician, hospital, nursing home staff	1,200	0.67	804
Participant's next of kin	1,200	.08	96
Total	6,000		9,900

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information will have practical utility; (2) The accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of data collection plans and instruments, contact Dr. Paul Sorlie, Division of Prevention and Population Sciences, NHLBI, NIH, II Rockledge Center, 6701 Rockledge Drive, MSC # 7936, Bethesda, MD, 20892–7936, or call non-toll-free number (301) 435–0456, or e-mail your request, including your address to: *sorliep@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: October 22, 2007.

Mike Lauer,

Director, Division of Prevention and Population Sciences, NHLBI, National Institutes of Health.

Suzanne Freeman,

OMB Clearance Officer, NHLBI, National Institutes of Health.

[FR Doc. E7–21705 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NIH-American Association for Retired Persons (AARP) Short Follow-Up Questionnaire 2008

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: NIH-American Association for Retired Persons (AARP) Short Follow-Up Questionnaire 2008. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The purpose of this short 2-page questionnaire is to obtain information on 18 different medical conditions, several medical procedures, and lifestyle characteristics from 513,225 participants of the NIH–AARP Diet and Health Study. The questionnaire will support the ongoing examination between cancer and nutritional exposures. This questionnaire adheres to The Public Health Service Act, section 412 (42 U.S.C. 285a–1) and section 413 (42 U.S.C. 285a–2), which authorizes the Division of Cancer Epidemiology and Genetics of the National Cancer Institute (NCI) to establish and support programs for the detection, diagnosis, prevention and treatment of cancer; and to collect, identify, analyze and disseminate information on cancer research, diagnosis, prevention and treatment. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* U.S. adults (persons aged 50–85). The annual reporting burden is as follows: *Estimated Number of Respondents:* 513,225; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* .0668; and *Estimated Total Annual Burden Hours Requested:* 34,283. The annualized cost to respondents is estimated at: $302,158. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondents	Number of respondents	Frequency of response	Average burden hours per response	Annual hour burden	Hourly wage rate	Cost to respond
Senior Adults	513,225	1	[1].0668	34,283	$17.68	$302,158

[1] (4 minutes).

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Arthur Schatzkin, M.D., Dr.P.H, Chief, Nutritional Epidemiology Branch, Division of Cancer Epidemiology and Genetics, National Cancer Institute, NIH, DHHS, Executive Plaza South, Room 3040, 6120 Executive Blvd., EPS–MSC 7242, Bethesda, MD 20892–7335 or call non-toll-free number 301–594–2931 or e-mail your request, including your address to: *schatzka@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: October 26, 2007.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E7–21759 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office Intramural Training and Education; Proposed Collection; Comment Request; National Institutes of Health Undergraduate Scholarship Program for Individuals From Disadvantaged Backgrounds

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the NIH Undergraduate Scholarship Program, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below.

Proposed Collection: Title: National Institutes of Health Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP). *Type of Information Collection Request:* Extension of a previously approved collection (OMB No. 0925–0438, expiration date July 31, 2004). *Form Numbers:* NIH 2762–1, NIH 2762–2, NIH 2762–3, NIH 2762–4, and NIH 2762–5. *Need and Use of Information Collection:* The NIH makes available scholarship awards to students from disadvantaged backgrounds who are committed to careers in biomedical research. The scholarships pay for tuition and reasonable educational and living expenses up to $20,000 per academic year at an accredited undergraduate institution. In return, for each year of scholarship support, the recipient is obligated to serve as a full-time paid employee in an NIH research laboratory for 10 consecutive weeks during the months of June through August and for one year after graduation. If the recipient is enrolled in an undergraduate program or pursues a postgraduate degree (doctoral, medical, dental, or veterinarian school), the postgraduation service obligation may be deferred with the approval of the Secretary of Health and Human Services. The information proposed for collection will be used by the NIH Undergraduate Scholarship Program to determine an applicant's eligibility for participation in the UGSP and a participant's eligibility to defer his or her service obligation. The UGSP is authorized by Section 487D of the Public Health Service (PHS) Act (42 U.S.C. 288–2), as amended by the NIH Revitalization Act of 1993 (Pub. L. 103–43). *Frequency of Response:* Initial application and annual renewal application. *Affected Public:* Applicants (high school or undergraduate students), recommenders, undergraduate institution financial aid staff, participants wishing to defer their service obligation, and graduate or undergraduate registrar staff. The annual reporting burden estimates are as follows:

Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Applicant	300	1.0	3.167	950.10
Recommender	900	1.0	1.000	900.00
Financial Aid Staff	300	1.0	.500	150.00
UGSP Participant	40	1.0	.084	3.36
Registrar	40	1.0	.750	30.00
Totals	1,580			2,033.46

The annualized cost to respondents is estimated at $40,249.70. There are no capital costs, operating costs, or maintenance costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Darryl M. Murray, PhD, Director, NIH Undergraduate Scholarship Program, National Institutes of Health, 2 Center Drive, Room 2E20 (MSC 0230), Bethesda, Maryland 20892–0230. Dr. Murray can be contacted via e-mail at *murrayda@mail.nih.gov* or by calling (301) 594–2222.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: October 29, 2007.

Raynard S. Kington,

Deputy Director, NIH.

[FR Doc. E7–21799 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of The Director, National Institutes of Health; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: December 7, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: Among the topics proposed for discussion are: (1) NIH Director's Report; (2) NIH Director's Council of Public Representatives Liaison Report; and (3) ACD Peer Review Work Group Report.

Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Penny W. Burgoon, PhD, Senior Assistant to the Deputy Director, Office of the Director, National Institutes of Health, 1 Center Drive, Building 1, Room 114, Bethesda, MD 20892, 301–451–5870, *burgoonp@od.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrom Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 30, 2007

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5534 Filed 11–5–07; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Career Transition Award (K22).

Date: November 27, 2007.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tony L. Creazzo, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzot@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Institutional National Research Service Awards (T32s).

Date: November 28, 2007.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Roy L. White, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7176, Bethesda, MD 20892–7924, 301–435–0310, *whiterl@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Conference Grants (R13s).

Date: November 28, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chang Sook Kim, PhD, Scientific Review Administrator, Review Branch, DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892, 301–435–0287, *carolko@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Patient-Oriented and Career Enhancement Award for Stem Cell Research (K 23, 24, 25).

Date: November 29–30, 2007.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Mark Roltsch, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892–7924, 301–435–0287, *roltschm@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Ancillary Studies in Clinical Trials.

Date: November 30, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yingying Li-Smerin, MD, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 29, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5516 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group, Heart, Lung, and Blood Program Project Review Committee.

Date: November 29, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton College Park, 4095 Powder Mill Road, Beltsville, MD 20705.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892–7924, 301–435–0303, *hurstj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 31, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5530 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, SNRP Review.

Date: November 26, 2007.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529, (301) 496–5388, *wiethorp@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 29, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5514 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Neuroimmunology Program Project.

Date: November 26, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, 3146, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Kenneth E. Santora, PhD, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3146, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2605, *ks216i@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 29, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5517 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: December 3–4, 2007.

Time: December 3, 2007, 8:30 a.m. to 5 p.m.

Agenda: NICHD Director's Report presentation, NCMRR Director's Report presentation and various reports on Medical Research Initiatives.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: December 4, 2007, 8:30 a.m. to 12 p.m.

Agenda: Other business dealing with the NABMRR Board.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ralph M. Nitkin, PhD, Director, BSCD, National Center for Medical Rehabilitation Research, National Institute of

Child Health and Human Development, NIH, 6100 Building, Room 2A03, Bethesda, MD 20892, (301) 402–4206.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/ncmrr.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5532 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Dyslexia Rat Model.

Date: November 20, 2007.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5533 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Data Analysis & Statistical Programming Support.

Date: November 26, 2007.

Time: 11:30 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5535 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, ''A Longitudinal MRI Study of Infants at Risk for Autism''.

Date: November 28, 2007.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5536 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Newborn Screening for Hearing Loss.

Date: November 26, 2007.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5537 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Fellowship Applications Review.

Date: December 4, 2007.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5538 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Training and Career Development Subcommittee, November 13, 2007, 6 p.m. to November 16, 2007 5 p.m. Double Tree Hotel & Executive Meeting Center, 8120 Wisconsin Ave., Bethesda, MD 20814, which was published in the **Federal Register** on October 26, 2007, Volume 72, #207.

The date of the meeting was changed to November 13–15, 2007. The meeting is closed to the public.

Dated: October 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5539 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Statistical and Computational Methods for Genomic Analysis.

Date: November 12, 2007.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301–435–1038, *remondid@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Behavior and Risk Prevention Fellowships.

Date: November 16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Gabriel B. Fosu, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3215, MSC 7808, Bethesda, MD 20892, 301–435–3562, *fosug@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Orthopaedics and Skeletal Biology.

Date: November 20, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: John P. Holden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–496–8551, *holdenjo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Regulation of Female Fertility and Pregnancy.

Date: November 28, 2007.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stuart B. Moss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1044, *mossstua@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts and Small Business.

Date: December 12, 2007.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tropics in Developmental Biology.

Date: December 12, 2007.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7843, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurological Aging and Musculoskeletal Epidemiology Study Section Member Conflict.

Date: December 18, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gertrude K. McFarland, FAAN, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, (301) 435–1784, *mcfarlag@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 29, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5515 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 6, 2007, 1 p.m. to November 6, 2007, 4 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on October 16, 2007, 72 FR 58676–58679.

The meeting will be held November 13, 2007, 3 p.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: October 31, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5529 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Glial Development, Myelination and Injury.

Date: November 29, 2007.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jonathan K. Ivins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Assays and Detectors Review.

Date: December 3–4, 2007.

Time: 6:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Ritz-Carlton, Tysons Corner, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Ping Fan, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–435–1740, *fanp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 31, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5531 Filed 11–5–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Honolulu, HI; Baton Rouge, LA; Tacoma, WA; Beaumont, TX, and Oakland, CA

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Honolulu, HI; Baton Rouge, LA; Tacoma, WA; Beaumont, TX, and Oakland, CA.

DATES: TWIC enrollment in Honolulu, Baton Rouge, and Tacoma will begin on November 7, 2007; TWIC enrollment in Beaumont and Oakland will begin on November 8, 2007.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Honolulu, HI; Baton Rouge, LA; Tacoma, WA; Beaumont, TX, and Oakland, CA only. Enrollment in Honolulu, Baton Rouge, and Tacoma will begin on November 7, 2007. Enrollment in Beaumont and Oakland will begin on November 8, 2007. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Honolulu, including those in the Port of Honolulu, HI; Captain of the Port Zone Baton Rouge, including those in the Port of Baton Rouge, LA; Captain of the Port Zone Puget Sound, including those in the Port of Tacoma, WA; Captain of the Port Zone Port Arthur, including those in the Port of Beaumont, TX; and Captain of the Port Zone San Francisco Bay, including those in the Port of Oakland, CA must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on November 1, 2007.

Stephen Sadler,

Director, Maritime and Surface Credentialing, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E7–21801 Filed 11–5–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–131, Revision of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–131, Application for Travel Document. OMB Control Number: 1615–0013.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 14, 2007, at 72 FR 45440. The notice allowed for a 60-day public comment period. USCIS received one comment from the public. The comment and response to the comment are addressed in item 8 of the supporting statement.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 6, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0013 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the 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 agencies 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:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–131. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. Certain aliens, namely permanent or conditional residents, refugees or asylees and aliens abroad use this information collection to apply for a travel document to lawfully enter or reenter the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 164,103 responses at 1 hour and 55 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,117,957 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: October 31, 2007.

Stephen Tarragon

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–21704 Filed 11–5–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5122–03]

Notice of Proposed Information Collection: Comment Request; Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 7, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410, e-mail *Lillian.L.Deitzer@hud.gov*, telephone number (202) 708–2374, extension 8048 (this is not a toll-free number. Hearing-or-speech-impaired persons may access the numbers above and below via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Devasia Karimpanal, Senior Technical Assistance Specialist, Department of Housing and Urban Development, 451 7th Street, SW., Room 8236, Washington, DC 20410; e-mail *Devasia.V.Karimpanal@hud.gov*, telephone (202) 402–7682.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans.

OMB Control Number, if applicable: 2539–0015.

Description of the need for the information and proposed use:

This information collection is required in conjunction with the issuance of Notices of Funding Availability for approximately $150,000,000 for Healthy Homes and Lead Hazard Control Programs that are authorized under Title X of the Housing and Community Development Act of 1992, Public Law 102–550, section 1011, and other legislation.

After the award of grants, HUD's Office of Healthy Homes and Lead Hazard Control requires its Healthy Homes Demonstration, Healthy Homes Technical Studies grantees, and Lead Technical Studies grantees which are conducting research or significant evaluation activities, to submit a *Quality Assurance Plan (QAP)* to the Office for approval before they initiate data collection. This requirement also applies to Office of Healthy Homes and Lead Hazard Control contractors who conduct such research or evaluation activities. This requirement has been established because quality assurance procedures ensure the accuracy and validity of data. The use of quality assurance plan templates helps to ensure that quality assurance activities are well planned and thorough, and standardizes the formatting of the plans, which aids both the respondents in plan development and HUD staff in their review. The use of different templates for technical studies and demonstration projects was designed to reduce respondent burden by requiring more detailed information only for the technical studies (research) projects, consistent with their more rigorous quality assurance requirements.

Agency form numbers, if applicable: HUD 96008, 96012, 96013, 960014, 96015, and standard grant forms.

Total Burden Estimate (annual):

Application Development: Number of respondents: 330; frequency of responses: 1; hours per response: 25; burden hours: 8250.

Award of Grant: Number of respondents: 80; frequency of responses: 1; hours per response: 15; burden hours: 1200.

Quality Assurance Plan: Number of respondents: 20; Frequency of response: 1; Hours per response: 24; Total Burden Hours: 480.

Grand total of estimated burden hours: 9930.

Status of the proposed information collection: This is a revision of a currently approved collection.

Members of Affected Public: Potential applicants include State, tribal, local governments, not-for-profit institutions and for-profit firms located in the U.S. state and units of general local government, and federally recognized Native American Tribes.

Additional Information: The obligation to respond to this information collection is required to obtain or retain benefits.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 29, 2007.

Jon L. Gant,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 07–5499 Filed 11–5–07; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

[MT–922–08–1310–FI–P; MTM 93133]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease MTM 93133

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Klabzuba Oil & Gas, Inc. timely filed a petition for reinstatement of oil and gas lease MTM 93133, Blaine County, Montana. The lessee paid the required rental accruing from the date of termination.

No leases were issued that affect these lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $163 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5098.

Dated: October 31, 2007.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. E7–21769 Filed 11–5–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We invite the public to comment on the following applications to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before December 6, 2007.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Endangered Species Program Manager, California and Nevada Operations (CNO), 2800 Cottage Way, Room W–2606, Sacramento, California, 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist, at the above CNO address, (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et. seq.*). The U.S. Fish and Wildlife Service (''we'') solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit No. TE–028605

Applicant: SWCA Environmental Consultants, Flagstaff, Arizona.

The applicant requests an amendment to take (harass by survey) the Yuma clapper rail (*Rallus longirostris yumanensis*) in conjunction with surveys in California for the purpose of enhancing its survival.

Permit No. TE–166495

Applicant: Pacific Municipal Consultants, Rancho Cordova, California.

The applicant requests a permit to take (capture, and collect and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (Lepidurus packardi) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–067990

Applicant: Barbie Dugan, Morro Bay, California.

The applicant requests an amendment take (relocate) the Morro shoulderband snail (*Helminthoglypta walkeriana*) in conjunction with habitat enhancement projects in San Luis Obispo County, California for the purposes for enhancing its survival.

Permit No. TE–166383

Applicant: Bureau of Land Management, Hollister, California.

The applicant requests a permit take (harass by survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys throughout Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, San Benito, Monterey, San Joaquin, Stanislaus, Merced, and Fresno Counties,

California, for the purpose of enhancing its survival.

Permit No. TE–166357

Applicant: Lee Ann Carranza, Capistrano Beach, California.

The applicant requests a permit to take (capture, and collect and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–166393

Applicant: Peter C. Trenham, Davis, California.

The applicant requests a permit take (harass by survey, capture, handle, attach transmitters, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with ecological research and population monitoring throughout Alameda, Contra Costa, Kern, Madera, Merced, Monterey, Sacramento, San Benito, San Mateo, Santa Clara, Solano, Sonoma, Tulare, and Yolo Counties, California, for the purpose of enhancing its survival.

Permit No. TE–787644

Applicant: William J. Vanherweg, San Luis Obispo, California.

The applicant requests a permit to take (capture and release) the Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Giant kangaroo rat (*Dipodomys ingens*), Morro Bay kangaroo rat (*Dipodomys heermanni*), and the San Joaquin kit fox (*Vulpes macrotis mutica*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing their survival.

Permit No. TE–009015

Applicant: Jason Berkley, Chino, California.

The applicant requests an amendment to take (survey, capture, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), mountain yellow-legged frog (*Rana muscosa*), and California tiger salamander (*Ambystoma californiense*) in conjunction with surveys for the purpose of enhancing their survival throughout the range of the species in California.

Permit No. TE–166940

Applicant: Heather C. Baker, Fresno, California.

The applicant requests a permit to take (capture, and collect and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–068745

Applicant: Jeffrey T. Wilcox, Berkely, California.

The applicant requests a permit take (harass by survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys throughout Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, San Benito, Monterey, San Joaquin, Stanislaus, Merced, and Fresno Counties, California, for the purpose of enhancing its survival.

Permit No. TE–067992

Applicant: Daniel S. Dugan, Morro Bay, California.

The applicant requests an amendment to take (*survey, capture, and release*) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with surveys for the purpose of enhancing their survival throughout the range of the species in California.

Permit No. TE–832717

Applicant: Rodrick Dossey, San Diego, California.

The applicant requests an amendment to remove/reduce to possession *Astragalus aristulatum var. parishii* (San Diego button celery), *Pogogyne abramsii* (San Diego mesa mint), *Pogogyne nudiuscula* (Otay mesa mint), *Orcuttia californica* (California Orcutt grass), and *Cordylanthus maritimus ssp. Maritimus* (salt marsh bird's beak) from Federal lands in conjunction with surveys in San Diego and Imperial Counties, California, for the purpose of enhancing their survival.

Permit No. TE–085260

Applicant: Jeff Steinman, San Francisco, California.

The applicant requests an amendment to take (harass by survey, and nest monitor) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and monitoring throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–167075

Applicant: Davinna L. Ohlson, San Jose, California.

The applicant requests a permit to take (capture, and collect and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

We solicit public review and comment on each of these recovery permit applications. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that we may be required to disclose your name and address pursuant to the Freedom of Information Act. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: October 31, 2007.

Michael Fris,

Acting Manager, California and Nevada Operations, Sacramento, California.

[FR Doc. E7–21768 Filed 11–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 48668; CA–690–07–5101–ER–B240]

Notice of Intent to Prepare a Joint Environmental Impact Statement and Final Staff Assessment, and Amend the California Desert Conservation Area Plan; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the California Environmental Quality Act (CEQA), the Department of the Interior, Bureau of Land Management (BLM), together with the California Energy Commission (CA EC), intend to prepare an Environmental Impact Statement/ Final Staff Assessment (EIS/FSA), on the impacts of the Ivanpah Solar Electric Generating System (Ivanpah SEGS), consisting of three concentrating solar-powered steam/electricity generating plants and related facilities, and a proposed land use plan amendment to the 1980 California Desert Conservation Area (CDCA) Plan, as amended. The Ivanpah SEGS is proposed by Solar Partners I, LLC; Solar Partners, II, LLC; Solar Partners IV, LLC; Solar Partners VIII,LLC; collectively the Applicants. The Applicants have requested a right-of-way (ROW) for each of three solar power plants and a ROW for related shared facilities on approximately 3,400 contiguous acres of public lands in San Bernardino County, approximately 4.5 miles southwest of Primm, Nevada. The EIS will analyze the site-specific impacts to the environment from the proposed grant of the ROWs and amend the CDCA Plan to permit this site-specific use of the CDCA. The CA EC is the lead State of California agency for the licensing of thermal power plants over 50 MW and compliance with the requirements of CEQA.

DATES: This notice initiates the public participation and scoping processes for the EIS. A public scoping period of at least 30 days and at least one public meeting will be announced through the local news media, newspapers, and BLM's Web page *(http://www.ca.blm.gov/needles)*. During the public scoping period the BLM will solicit public comment on issues, concerns and opportunities that should be considered in the analysis of the proposed action. The BLM expects to hold at least one public meeting and information about that meeting will be announced through the local news media, newspapers and BLM Web site *(http://www.ca.blm.gov/needles)* at least 15 days prior to the event. Comments on issues, potential impacts, or suggestions for additional alternatives may also be submitted in writing to the address listed below. In order to be included in the Draft EIS all comments must be received prior to the close of the scoping period or 15 days after the last public meeting, whichever is later. Additional opportunities for public participation and formal comment will occur when the Draft EIS/Preliminary Staff Assessment is issued.

ADDRESSES: Comments and other correspondence should be sent to the BLM Needles Office, attention George R. Meckfessel, Planning and Environmental Coordinator, Needles Field Office, 1303 South U.S. Highway 95, Needles, California, 92363–4228, or by fax at (760) 326–7099 or by e-mail at *690@ca.blm.gov* attention Ivanpah SEGS. Documents pertinent to this proposal, including comments of respondents, will be available for public review at the BLM Needles Field Office during regular business hours of 7:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact George R. Meckfessel, Planning and Environmental Coordinator, Needles Field Office, 1303 South U.S. Highway 95, Needles, California 92363–4228, (760) 326–7008, fax (760) 326–7099, or e-mail *George_Meckfessel@ca.blm.gov*.

SUPPLEMENTARY INFORMATION: Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners IV, LLC and Solar Partners VIII, LLC have applied for individual ROWs on public lands to develop three solar thermal power plants and related shared facilities in close proximity on approximately 3,400 acres. The proposed projects would be constructed in three phases, as follows, 100 mega-watts (MW) (Ivanpah 1), 100 MW (Ivanpah 2) and 200 MW (Ivanpah 3). The site is located in Townships 16 and 17 North, Range 14 East, San Bernardino Meridian, and is approximately 4.5 miles southwest of Primm, Nevada. It is anticipated that the energy output of the plants will serve California and assist the state in meeting its renewable energy portfolio standards and goals. These concentrating solar plants would utilize distributed power tower and heliostat (mirror) technology, in which heliostat fields focus solar energy on power tower receivers near the center of each heliostat array. The total 400 MW project would incorporate 13 power towers and approximately 272,000 heliostats (each is 7 square meters in size). Each of the three proposed plants would have an individual power block with steam turbine, an air-cooled condenser, switchyard, and a generation tie-line. The three plants would share access roads, two groundwater wells and water lines, an administrative/maintenance complex, a new substation, and a new 5.3 mile natural gas pipeline. The shared facilities would be constructed in the first phase. The plants would be interconnected to the Southern California Edison (SCE) grid by SCE through upgrades to SCE's 115 kV line passing through the site and a new substation. The three plants would take approximately 4 years to construct, and are expected to operate at last 50 years. Construction of the project is anticipated to begin in the first quarter of 2009, with construction being completed in the last quarter of 2012.

BLM will consider approval of the proposed Project in a manner that avoid or reduces impacts to public lands. This action responds to federal law and BLM's policy allowing the use of public lands for renewable energy, specifically section 211 of the Energy Policy Act of 2005 (119 Stat. 594, 660) and BLM's Solar Energy Development Policy, which was issued on April 4, 2007, and established a framework to process applications for ROWs and directs the BLM to be responsive to solar energy project applicants while protecting the environment. The CDCA Plan and the Federal Land Policy Management Act of 1976 (FLPMA) both recognize that the CDCA will be managed for multiple uses, including solar energy.

BLM must take into consideration state law when granting ROWs. Current California state laws and policy require the increased use of renewable energy and established the California Renewable Portfolio Standard Program, under which the percentage of electricity generated by publicly owned

utilities in California must increase to 20% by 2010 and 33% by 2017.

The site selection study for the proposed solar plants and related facilities was conducted in 2006–07. Several sites were identified as being suitable for this form of concentrating solar technology. The EIS/FSA will describe and analyze the proposed project as proposed and will include: (1) BLM measures to avoid, minimize, or mitigate impacts on the environment; (2) A smaller plant alternative; (3) The ''No Action'' alternative (no new solar power generation facility); and (4) Alternative site locations for constructing and operating Ivanpah SEGS. Through public scoping BLM expects to identify various issues, potential impacts and mitigation measures. As proposed, the solar plants have been sited to take advantage of high solarity, to be located in areas identified in the CDCA Plan as suitable for wind and solar development, and to avoid special status species habitat. The plants are dry-cooled to reduce water consumption and would be located near existing gas and electric transmission facilities to reduce land disturbance. BLM has identified a potential list of issues that will need to be addressed in this analysis including but not limited to: Air quality; social and economic impacts, including impacts to the public from traffic; ground and surface water quantity and quality impacts; plant and animal species including special status species; cultural resources; visual resource impacts; and land tenure adjustment (grazing and mining). If approved, these solar energy projects on public lands would be authorized in accordance with the FLMPA and the federal regulations at Title 43 Code of Federal Regulations 2800.

(Authority: 43 CFR part 1712 and 43 CFR Part 1761).

Dated: October 31, 2007.

J. Anthony Danna,

Deputy State Director, Natural Resources (CA–930).

[FR Doc. E7–21762 Filed 11–5–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alternative Energy and Alternate Use Final Programmatic Environmental Impact Statement

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability (NOA) of the Final Programmatic Environmental Impact Statement (EIS).

SUMMARY: The MMS has prepared a final programmatic EIS in support of the establishment of a program for authorizing alternative energy and alternate use activities on the Outer Continental Shelf (OCS), as authorized by Section 388 of the Energy Policy Act of 2005 (EPAct), and codified in subsection 8(p) of the Outer Continental Shelf Lands Act (OCSLA). Pursuant to the regulations implementing the National Environmental Policy Act (NEPA), the MMS is announcing the availability of this final programmatic EIS. As part of its efforts to develop a regulatory program for alternative energy and alternate use activities, this final programmatic EIS examines the potential environmental effects of the program on the OCS and identifies policies and best management practices that may be adopted for the program. Several alternatives available to the MMS for implementing an alternative energy and alternate use program on the OCS are analyzed in this final programmatic EIS, including the ''no action'' alternative.

The MMS intends to prepare a separate NEPA analysis, tiered from this EIS, to evaluate the environmental impacts of the proposed rule for alternative energy and alternate use activities on the OCS. Further, separate lease sale, activity-specific, and proposal-specific NEPA analyses will be prepared as appropriate.

Authority: The NOA is published pursuant to the regulations (40 CFR 1506.6) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

SUPPLEMENTARY INFORMATION: Section 388 of the EPAct, granted the Secretary of the U.S. Department of the Interior (Secretary) discretionary authority to issue leases, easements, or rights-of-way for activities on the OCS that produce or support production, transportation, or transmission of energy from sources other than oil and gas, and are not otherwise authorized by other applicable law. The Secretary delegated this authority to the MMS. Examples of the general types of alternative energy project activities that MMS has the discretion to authorize may include, but are not limited to: Wind energy, wave energy, ocean current energy, solar energy, and hydrogen production.

The MMS has also been delegated discretionary authority to issue leases, easements, or rights-of-way for other OCS project activities that make alternate use of existing OCS facilities for ''energy-related purposes or for other authorized marine-related purposes,'' to the extent such activities are not otherwise authorized by other applicable law. Such activities may include, but are not limited to: Offshore aquaculture, research, education, recreation, and support for offshore operations and facilities.

This programmatic EIS analyzes the environmental impacts from potential activities that may arise from the establishment of an alternative energy and alternate use program on the OCS in the reasonably foreseeable future, defined in the EIS as 5–7 years. The MMS chose to prepare this programmatic EIS to assist its efforts to develop a comprehensive program and to complete the proposed rule. The programmatic EIS analyzes the potential environmental impacts that could result from the development of alternative energy and alternative use projects on the OCS and identifies potential mitigation measures. As such, the programmatic EIS process:

(1) Provides for public input, through scoping meetings, hearings, and written comments, concerning the scope of national issues associated with offshore alternative energy and alternate use activities;

(2) Identifies, defines, and assesses generic environmental impacts associated with potential offshore alternative energy and alternate use activities to increase the agency understanding of the environmental consequences of future actions;

(3) Evaluates and proposes policies and best management practices that may be adopted for any rulemaking by MMS; and,

(4) Establishes a foundation for future NEPA analyses required for the implementation of the alternative energy and alternate use program.

The preferred alternative of this final programmatic EIS combines elements of the proposed action and the ''case-by-case'' alternative. This combination provides MMS flexibility to issue and manage leases, easements, or rights-of-way on the OCS for alternative energy and alternate use activities during the rulemaking process. Areas of the OCS that are assessed in this programmatic EIS are limited to those not expressly excluded under Section 388 of the EPAct, such as any areas on the OCS within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, or any National Monument.

EIS Availability: To obtain a single printed or CD–ROM copy of the final programmatic EIS, you may contact the

Minerals Management Service, Environmental Assessment Branch (MS 4042), 381 Elden Street, Herndon, Virginia 20170. An electronic copy of the final programmatic EIS is available at the MMS's EIS Web site at: *ocsenergy.anl.gov.*

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Mr. James F. Bennett, Environmental Division, 381 Elden Street, Herndon, Virginia 20170, (703) 787–1660.

Dated: October 25, 2007.

Robert P. LaBelle,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. E7–21792 Filed 11–5–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Request for Information and Nominations of Areas for Leases Authorizing Alternative Energy Resource Assessment and Technology Testing Activities Pursuant to Subsection 8(p) of the Outer Continental Shelf Lands Act, as Amended

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Request for information and nominations.

SUMMARY: The Minerals Management Service (MMS) invites comments concerning the authorization of activities on the Outer Continental Shelf (OCS) involving the installation of meteorological or marine data collection facilities to assess alternative energy resources (e.g., wind, wave, and ocean current) or to test alternative energy technology to produce or support production of alternative energy. The MMS intends to adopt an interim policy to authorize such facilities (e.g., meteorological towers or wave and current data collection instruments and wave or current generators or other developing technology) under subsection 8(p) of the OCS Lands Act, as amended by section 388 of the Energy Policy Act of 2005. Parties wishing to obtain such authorizations should submit detailed and specific nomination and application information as described below.

DATES: The MMS requests comments by January 7, 2008. We will begin review on that date and consider all comments received by that time.

ADDRESSES: You may submit your comments by one of two methods:

(1) Commenting electronically using the MMS Public Connect online commenting system (*https://ocsconnect.mms.gov*).

(2) Mailing your comments to the following address: Minerals Management Service, Offshore Minerals Management, Alternative Energy and Alternate Use Team, 381 Elden Street, Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Ms. Maureen Bornholdt, Minerals Management Service, Offshore Minerals Management, 381 Elden Street, Herndon, Virginia 20170–4817, (703) 787–1300, Mail Stop 4080.

SUPPLEMENTARY INFORMATION: *Public Comment Policy.* Before including your address, phone number, e-mail address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. While you may 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.

The MMS will protect privileged or confidential information that you submit as allowed by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that is privileged or confidential. If you wish to protect the confidentiality of such information that you submit, clearly mark it and request that the MMS treat it as confidential. The MMS will not disclose such information, subject to the standards of FOIA. However, the MMS will not treat as confidential any aggregate summaries of such information or comments not containing such information. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment to your comments.

Background. The Energy Policy Act of 2005 amended the OCS Lands Act by adding subsection 8(p), which authorizes the Secretary of the Interior to grant a lease, easement or right-of-way on the OCS for activities that are not otherwise authorized by the OCS Lands Act or other existing law and that (1) produce or support production, transportation, or transmission of energy from sources other than oil or gas; or (2) use for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCS Lands Act. This authority was delegated from the Secretary to the MMS Director on March 20, 2006. This Notice pertains only to the activities covered in (1) above.

The MMS is developing an Alternative Energy and Alternate Use (AEAU) program and associated regulations. We also are analyzing the environmental consequences of establishing an AEAU program in a Programmatic Environmental Impact Statement (PEIS) being prepared pursuant to the National Environmental Policy Act (NEPA). The MMS began the rulemaking process by issuing an Advance Notice of Proposed Rulemaking on December 30, 2005. The MMS started the preparation of the PEIS with a Notice of Intent issued on May 5, 2006. Subsequently, we held scoping meetings around the country in Spring 2006, issued a draft PEIS for comment on March 21, 2007, and held hearings on the draft PEIS in Spring 2007. The MMS issued its final PEIS on November 6, 2007. Later this year, the MMS will issue its Record of Decision on the PEIS and plans to publish a Notice of Proposed Rulemaking. This Notice is not part of the rulemaking process.

While the MMS is developing the AEAU program, we have adhered to a policy of not considering proposals for new alternative energy projects until after completion of the PEIS and issuance of a final rulemaking. During this time, we have proceeded with environmental analyses under NEPA on only two projects identified in the ''savings provision'' included as section 388(d) of the Energy Policy Act of 2005.

Interim Policy for Authorization of Resource Data Collection and Technology Testing Facilities. Among the first steps of alternative energy project development is the collection of resource data. Such data are often required by component manufacturers, such as wind turbine suppliers, and by financial backers. Thus, initial site assessment activities, such as meteorological tower installation and operation, are properly considered a first phase of commercial alternative energy production on the OCS. Similarly, activities involving the installation and operation of facilities to test alternative energy generating technologies advance the development of an alternative industry offshore and support the ultimate deployment of commercial-scale alternative energy production on the OCS. For these reasons, installation and operation of resource data collection and technology testing facilities on the OCS are deemed by the MMS to support production of alternative energy and therefore leases

for this activity are authorized under subsection 8(p) of the OCS Lands Act.

The MMS is initiating this interim policy under which resource data collection facilities, such as meteorological towers and wave and current data collection instruments, and technology testing facilities, such as wave and current turbines, could be considered and authorized for installation and operation on the OCS before promulgation of final rules. Many stakeholders—including coastal states, alternative energy project proponents, nongovernmental organizations, and the general public—have commented to the MMS, recommending that OCS alternative energy resource assessment activities be authorized expeditiously. The MMS wishes to be responsive and believes that significant benefits would accrue to both the stakeholders and the Federal Government if we expedite the ability to acquire resource data and technology testing results to inform future decision-making with respect to the AEAU program.

This interim policy would not apply to project proposals for the installation of turbines or other energy generating devices associated with the commercial development of alternative energy resources on the OCS (i.e., sale or distribution for compensation). Projects that MMS is currently evaluating pursuant to the ''savings provision'' of Section 388 of the Energy Policy Act of 2005 would not be affected or limited by this interim policy. Thus, any authorization issued under the interim policy would be limited in scope to the installation of meteorological, marine, or other resource data collection facilities and associated data collection activities and the installation and operation of technology testing facilities. Offshore wind turbine technologies will not be authorized for technology testing through this interim policy.

The interim policy would be in effect until the MMS promulgates final rules for the AEAU program, at which time all AEAU program activities will be regulated under those rules. However, the MMS may limit the number of authorizations under this interim policy. Parties wishing to receive authorizations for data collection activities and technology testing may continue to submit requests under the interim policy until the final rules are in place.

Leases. Under this interim policy the MMS would issue limited-term leases authorizing data collection activities and technology testing in support of alternative energy production subject to obtaining necessary approvals for construction and placement of associated structures on the OCS lease area. Such leases would have a limited term and would confer no priority rights to subsequently develop an alternative energy facility on the OCS for generating electricity or other produced energy for commercial sale or distribution. The MMS proposes a lease term of 5 years. Any subsequent MMS authorizations for commercial alternative energy facilities would be processed independently in accordance with subsection 8(p) of the OCS Lands Act and the associated implementing regulations currently in development by the MMS. However, the initial lease term may be extended at the discretion of the MMS if the lessee demonstrates that more time is needed to conduct data collection or technology testing activities. The size of each lease issued would be designed to accommodate the activities proposed, but multiple facilities in noncontiguous areas would require separate leases.

As required by subsection 8(p)(3) of the OCS Lands Act, leases for alternative energy resource assessment and technology testing must be issued on a competitive basis unless the MMS determines, after public notice, that there is no competitive interest. The MMS will consider nominations and other information received in response to this notice to evaluate competitive interest in leases for alternative energy resource assessment and technology testing. In cases where we determine that there is competitive interest in the same geographic area, we may conduct a competitive auction (lease sale). Otherwise, we may proceed to issue leases noncompetitively on a case-by-case basis. The MMS will use criteria, such as complexity of facilities, proposed installation dates, and available MMS resources to oversee such projects, in setting priorities and determining the number of applications we will consider. As required by subsection 8(p)(7) of the OCS Lands Act, the MMS will coordinate and consult with the Governor of any State or the executive of any local government that may be affected by a lease issued under the interim policy.

The installation of resource data collection and technology testing facilities will require the submission of a plan describing the proposed construction, operation, and removal of the facility, which will be subject to MMS review before authorization of the proposed activities. Each lease and associated activities must comply fully with all applicable laws and regulations (e.g., NEPA, the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Rivers and Harbors Act, the Clean Air and Water Acts, and U.S. Coast Guard and Federal Aviation Administration requirements). A NEPA review of potential environmental impacts will be conducted for each lease, and appropriate restrictions and mitigation measures may be applied. Unless otherwise authorized by the Director, any facilities constructed on the lease must be removed when the lease expires, and removal of facilities must be accomplished in a manner approved by the MMS. The MMS will require an annual rental payment for each lease and proposes that the rental amount be $3.00 per acre. Also, the MMS will require lessees to meet appropriate financial assurance requirements to guarantee compliance with all terms and conditions of the lease. The specific terms and conditions of this authorization, including plan information, rental payments and financial assurance requirements, will be set forth in the lease instrument, a draft of which will be published for public review and comment. The draft lease instrument may include the clauses listed below.

1. Rights of Lessee.
2. Reservations to Lessor.
3. Effective Date and Lease Term (5 years proposed).
4. Designation of Operator.
5. Applicable Statutes and Regulations.
6. Rentals ($3.00 per acre proposed).
7. Notice of Commencement and Termination of Activities.
8. Project Plan.
9. Compliance.
10. Progress Reports.
11. Confidentiality of Information.
12. Inspections.
13. Violations, Suspensions and Cancellations.
14. Liability of Lessee.
15. Security.
16. Assignment or Transfer of Lease.
17. Surrender of Lease.
18. Removal of Property and Restoration of the Leased Area on Termination.
19. Debarment Compliance.
20. Notices.

Leases issued under this interim policy will grant the lessee exclusive rights to conduct the activities identified in the lease on the designated OCS lease area. However, the MMS is not restricted from, and may consider, authorizing other activities on the same area of the OCS that do not impede on or interfere with the original lessee's exclusive rights under its lease.

Applicability. In accordance with subsection 8(p)(10) of the OCS Lands Act, data collection and technology testing activities may not be authorized

within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument. Also, any request for authorization of data collection or technology testing activities in the areas of Nantucket Sound off Massachusetts and off Jones Beach, Long Island, New York, would be considered by the MMS to determine what impact any such authorizations would have on projects that are currently being evaluated by MMS pursuant to the ''savings provision'' included as section 388(d) of the Energy Policy Act of 2005.

Information Requested From Commenters

As the MMS proposes to authorize on a limited basis the installation of data collection and technology testing facilities to produce or support production of alternative energy on the OCS, we invite all interested and affected parties to provide comments on any aspect of the interim policy. We also would appreciate responses to the questions posed below.

(1) Would you be interested in acquiring an alternative energy resource assessment lease or technology testing lease as proposed under the interim policy? If so, please identify the resource(s) you would want to assess (e.g., wind, wave, current) and the technology you would want to test and provide a general description of the type and number of installations or technologies you would use, prospective locations, and a project schedule for the activities you would propose to pursue. The MMS requests respondents to identify prospective locations by depicting them on Official Protraction Diagrams (Leasing Maps for areas off Texas and Louisiana) available from each MMS regional office and online at *http://www.mms.gov/ld/Maps.htm*. For areas such as those off Hawaii and Alaska that have nonexistent or incomplete Official Protraction Diagrams, please identify prospective locations by latitude and longitude (NAD 83). If you submit such nomination and application information, please provide the name, telephone number, and e-mail address of an individual for the MMS to contact.

(2) Would you be willing to collaborate and enter into joint ventures with other prospective lessees who express interest in acquiring the same location for an alternative energy resource assessment or technology testing lease?

(3) What would be an appropriate lease term (duration) for the authorization you are interested in acquiring?

(4) Is the rental rate of $3.00 per acre appropriate?

(5) How much acreage should be authorized for the types of activities proposed and how should leases for such activities be appropriately spaced (i.e., inclusion of buffers)?

(6) How should the MMS define technology testing activities and what specific types of activities should be authorized by technology testing leases? Should technology testing leases accommodate projects that would require a transmission cable to connect to onshore interconnection points?

Dated: October 25, 2007.

Randall B. Luthi,

Director, Minerals Management Service.

[FR Doc. E7–21793 Filed 11–5–07; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–598]

In the Matter of Certain Unified Communications Systems, Products Used With Such Systems, and Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Granting Complainant's Motion To Amend the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 19) of the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the complaint in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 26, 2007, based on a complaint filed by Microsoft Corporation (''Microsoft'') of Redmond, Washington. 72 FR 14138–9. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. **1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain unified communications systems, products used with such systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,421,439 (''the '439 patent''); 6,430,289 (''the '289 patent''); 6,263,064 (''the '064 patent''); and 6,728,357 (''the '357 patent''). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Alcatel-Lucent of Paris, France as the only respondent.

On April 20, 2007, Microsoft initially moved to amend the complaint to: (1) Substitute Alcatel Business Systems for Alcatel-Lucent as respondent in this investigation, and (2) add allegations of infringement of claims 8, 28, 38, and 48 of the '439 patent, and claim 20 of the '064 patent. Alcatel-Lucent, proposed respondent Alcatel Business Systems, and the Commission investigative attorney did not oppose the motion.

On May 17 and September 20, 2007, respectively, the Commission determined not to review IDs, issued by the presiding ALJ, granting Microsoft's motions to amend the complaint and to terminate the investigation in part based on Microsoft's withdrawal of certain claims. On October 23, 2007, the Commission determined not to review an ID granting Microsoft's withdrawal of additional claims.

On October 12, 2007, respondent filed an unopposed motion to further amend the complaint to reflect a corporate name change from Alcatel Business Systems to Alcatel-Lucent Enterprise.

On October 15, 2007, the ALJ issued the subject ID granting respondent's motion to amend the complaint. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a). The Commission has determined not to review this ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.14 and 210.42(c) of the Commission's Rules of Practice and Procedure, 19 CFR 210.14, 210.42(c).

Issued: October 25, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–21757 Filed 11–5–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–022]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

Time and Date: November 9, 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–1131–1134 (Preliminary) (Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates)—briefing and vote. (The Commission is currently scheduled to transmit its determinations to the Secretary of Commerce on or before November 13, 2007; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before November 20, 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.

Issued: October 29, 2007.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–21736 Filed 11–5–07; 8:45 am

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–NEW]

Criminal Division; Asset Forfeiture and Money Laundering Section; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Annual Certification Report and Equitable Sharing Agreement.

The Department of Justice (DOJ), Criminal Division, Asset Forfeiture and Money Laundering Section (AFMLS) 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 190, pages 56095–56096 on October 2, 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 December 6, 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:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Authorization and combination of two currently unapproved collections.

(2) *Title of the Form/Collection:* Annual Certification Report and Equitable Sharing Agreement.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: *Form Number:* N/A. Criminal Division, Asset Forfeiture and Money Laundering Section.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* Law Enforcement Agencies that participate in the Federal Equitable Sharing Program. *Other:* None. The form is part of a voluntary program in which law enforcement agencies receive forfeited assets and proceeds to further law enforcement operations. The participating law enforcement agencies must account for their use of program funds on an annual basis and renew their contract of participation. DOJ uses this information to ensure that the funds are spent in accordance with the requirements of the program.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 8,729 respondents will complete a 30 minute form.

(6) An estimate of the total public burden (in hours) associated with the collection:

(7) There are an estimated 43,652 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: October 31, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–21813 Filed 11–5–07; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0090]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: ATF F 5630.5R, NFA Special Tax Renewal Registration and Return, ATF F 5630.5RC, NFA Special Tax Location Registration Listing, ATF F 5630.7, NFA Special Tax Registration and Return National Firearms Act.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 166, page 49314–49315 on August 28, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment December 6, 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) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* ATF F 5630.5R, NFA Special Tax Renewal Registration and Return, ATF F 5630.5RC, NFA Special Tax Location Registration Listing, ATF F 5630.7, NFA Special Tax Registration and Return National Firearms Act.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5630.5R, ATF F 5630.5RC, ATF F 5630.7. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: ATF F 5630.7, NFA Special Tax Registration and Return National Firearms Act is completed and returned by businesses that are subject to Special Occupational Taxes under the National Firearms Act for either initial tax payment or business information changes. This form serves as both a return and a business registration. ATF F 5630.5R, NFA Special Tax Renewal Registration and Return and ATF F 5630.5RC, NFA Special Tax Location Registration Listing are preprinted forms sent to taxpayers for Special Occupation Taxes under the National Firearms Act. Taxpayers validate/correct the information and send the forms back with payment for the applicable tax year.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 2,800 taxpayers will complete forms ATF F 5630.5R and ATF F 5630.5RC in approximately 20 minutes (10 minutes for each form). It is also estimated that 200 new taxpayers will complete ATF F 5630.7 in its entirety in approximately 15 minutes. The total number of respondents for this information collection is 3,000.

(6) *An estimate of the total burden (in hours) associated with the collection:* The total burden for ATF F 5630.5R and ATF F 5630.5RC is 933 hours. The total burden for ATF F 5630.7 is 50 hours. The estimated total public burden associated with this information collection is 983 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: October 31, 2007.

Lynn Bryant,

Department Clearance Officer, PRA. United States Department of Justice.

[FR Doc. E7–21812 Filed 11–5–07; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: Identity Theft Supplement (ITS) to the National Crime Victimization Survey (NCVS).

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics 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 1677, pages 49732–49733 on month, August 29, 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 December 6, 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:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* New collection.

(2) *Title of the Form/Collection:* Identity Theft Supplement (ITS) to the National Crime Victimization Survey.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* ITS–1. Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Persons 16 years or older in NCVS sampled households in the United States. The Identity Theft Supplement (ITS) to the National Crime Victimization Survey collects, analyzes, publishes, and disseminates statistics on the prevalence, economic cost, and consequences of identity theft on victims.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 62,730 persons 18 years of age or older will complete an ITS interview. The majority of respondents, approximately 58,970 will be administered only the screening portion of the ITS which are designed to filter out those people who have not been victims of repetitive harassing or unwanted contacts and therefore are not eligible to continue with the remainder of the supplement questions. We estimate the average length of the ITS interview for these individuals will be 0.05 hours (three minutes). The complement of this group of respondents are those who had such experienced identity theft. According to the estimates by the Federal Trade Commission, we expect about 6 percent or 3,764 of the respondents to report being a victim of identity theft during the two years preceding the interview. We estimate each of these interviews will take 0.25 hours (15 minutes) to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 3,891 hours.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20530.

Dated: October 31, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–21776 Filed 11–5–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Job Corps: Final Finding of No Significant Impact (FONSI) for the Proposed Job Corps Center To Be Located North of Roosevelt Highway Between Washington Road and Interstate 285 in College Park, GA

AGENCY: Office of the Secretary (OSEC), Department of Labor.

ACTION: Final Finding of No Significant Impact (FONSI) for the proposed Job Corps Center to be located north of Roosevelt Highway between Washington Road and Interstate 285 in College Park, Georgia.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Office of the Secretary (OSEC), in accordance with 29 CFR 11.11(d), gives final notice of the proposed construction of a new Job Corps Center north of Roosevelt Highway between Washington Road and Interstate 285 in College Park, Georgia, and that this construction will not have a significant adverse impact on the environment. In accordance with 29 CFR 11.11(d) and 40 CFR 1501.4(e)(2), a preliminary FONSI for the new Job Corps Center was published in the June 18, 2007 **Federal Register** (72 FR Page 33534–33535). No comments were received regarding the preliminary FONSI. OSEC has reviewed the conclusion of the environmental assessment (EA), and agrees with the finding of no significant impact. This notice serves as the Final Finding of No Significant Impact for the new Job Corps Center north of Roosevelt Highway between Washington Road and Interstate 285 in College Park, Georgia. The preliminary FONSI and the EA are adopted in final with no change.

DATES: *Effective Date:* These findings are effective as of August 2, 2007.

FOR FURTHER INFORMATION CONTACT: Michael F. O'Malley, Architect, Unit Chief of Facilities, U.S. Department of Labor, Office of the Secretary (OSEC), 200 Constitution Avenue, NW., Room N–4460, Washington, DC 20210, (202) 693–3108 (this is not a toll-free number).

Dated: October 31, 2007.

Esther R. Johnson,

National Director of Job Corps.

[FR Doc. E7–21709 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such

request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 16, 2007.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 16, 2007.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 31st day of October 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

APPENDIX—TAA PETITIONS INSTITUTED BETWEEN 10/22/07 AND 10/26/07

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
62332	Hartmann (Comp)	Lebanon, TN	10/22/07	10/19/07
62333	Liberty Fibers Corporation (Comp)	Lowland, TN	10/22/07	10/22/07
62334	Mammoth, Inc. (Wkrs)	Chaska, MN	10/22/07	10/15/07
62335	Krizman International (Comp)	Mishawaka, IN	10/22/07	10/18/07
62336	Fabtek Corporation/Div. of Blount International Inc (State).	Menominee, MI	10/22/07	10/08/07
62337	Robert Bosch Corporation (State)	Saint Joseph, MI	10/22/07	10/19/07
62338	Wire Rope Corporation of America (WRC) (Wkrs).	St. Joseph, MO	10/22/07	10/17/07
62339	Teleplan Wireless (State)	Chanhassen, MN	10/23/07	10/22/07
62340	Commonwealth Land Title Co. (Wkrs)	Martinez, CA	10/23/07	10/16/07
62341	Nortel, Inc. (Wkrs)	Research Triangle Park, NC	10/23/07	10/17/07
62342	Georgia Pacific West, Inc. (UBCJA)	Bellingham, WA	10/23/07	10/19/07
62343	Parametric Technology Corporation (State)	Arden Hills, MN	10/23/07	10/22/07
62344	Black and Decker Industrial Products Group (Comp).	Jackson, TN	10/23/07	10/22/07
62345	Marathon USA, LLC (Comp)	Medford, OR	10/23/07	10/17/07
62346	McConway & Torley Corporation (Union)	Kutztown, PA	10/24/07	10/27/07
62347	Alliance Title (Wkrs)	Campbell, CA	10/24/07	10/12/07
62348	Madison (Wkrs)	Sumter, SC	10/24/07	10/16/07
62349	Texas Instruments Incorporated (Comp)	Dallas, TX	10/24/07	10/22/07
62350	Hewlett-Packard, Inkjet Supplies Business (Comp).	Boise, ID	10/24/07	10/23/07
62351	Black and Decker Inc. (Comp)	Decatur, AR	10/24/07	10/23/07
62352	Weyerhaeuser Company (State)	Ironton, MN	10/24/07	10/23/07
62353	Hewlett-Packard (State)	Fort Collins, CO	10/24/07	10/23/07
62354	GDX North America (USW)	Wabash, IN	10/24/07	10/22/07
62355	Hawley Products Inc. (Comp)	Paducah, KY	10/24/07	10/23/07
62356	Wachovia (Wkrs)	Glen Allen, VA	10/25/07	10/24/07
62357	WestPoint Home—Stores Division (Comp)	Valley, AL	10/25/07	10/22/07
62358	Pelican Company LLC (State)	Winnsboro, LA	10/25/07	10/24/07
62359	Custom Inlay, Inc. (Comp)	Caneyville, KY	10/25/07	10/16/07
62360	GE Aviation (Comp)	Corona, CA	10/26/07	10/24/07
62361	Millward Brown/Kantar Operations (Wkrs)	Rock Island, IL	10/26/07	10/25/07
62362	Meadwestvaco Custom Papers, LLC (Comp).	South Lee, MA	10/26/07	10/24/07
62363	Tweel Home Furnishings (State)	Rock Hill, SC	10/26/07	10/25/07
62364	Boston Communications Group (Wkrs)	Bedford, MA	10/26/07	10/25/07
62365	WestPoint Home (Comp)	Biddeford, ME	10/26/07	10/24/07
62366	Curves (Comp)	Berlin, NH	10/26/07	10/26/07
62367	Rochwell Automation (Comp)	Dublin, GA	10/26/07	10/25/07
62368	G-Tech Professional Staffing (State)	Wixom, MI	10/26/07	10/09/07

[FR Doc. E7–21742 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,345]

Marathon USA, LLC, Medford, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 23, 2007 in response to a worker petition filed by a company official on behalf of workers at Marathon USA, LLC, Medford, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 29th day of October 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21741 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,769]

Renfro Corporation, Hot Sox Warehouse, Secaucus, NJ; Notice of Revised Determination on Reconsideration

By letter dated September 6, 2007, a company official requested administrative reconsideration by the U.S. Department of Labor (the Department) of the Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, applicable to workers and former workers of Renfro Corporation, Hot Sox Warehouse, Secaucus, New Jersey (the subject firm). The Department's determination was issued on August 8, 2007. The Department's Notice of determination was published in the **Federal Register** on August 27, 2007 (72 FR 49024).

The negative determination was based on the Department's findings that the subject workers, who are engaged in the packaging and distribution of socks produced abroad, are not engaged in employment related to the production of an article within the meaning of Section 222(a)(2) of the Trade Act of 1974 (the Act) and do not support a firm or appropriate subdivision that produces an article domestically. The Department concluded that the workers cannot be considered import impacted or affected by a shift in production of an article.

In the request for reconsideration, the company official provided additional information that showed that the subject workers are engaged in activity related to the production of packaged socks.

During the reconsideration investigation, the Department confirmed that the subject firm ceased operations and obtained new information that increased imports of articles like or directly competitive with the packaged socks produced by the subject workers contributed importantly to workers' separations.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Renfro Corporation, Hot Sox Warehouse, Secaucus, New Jersey, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Renfro Corporation, Hot Sox Warehouse, Secaucus, New Jersey, who became totally or partially separated from employment on or after June 28, 2006, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 24th day of October 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21746 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,705; TA–W–61,705A]

RF Monolithics, Inc., Dallas, TX; Including an Employee of RF Monolithics, Inc., Dallas, TX Located in Gillsville, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on July 13, 2007, applicable to workers of RF Monolithics, Inc., Dallas, Texas. The notice was published in the **Federal Register** on July 26, 2007 (72 FR 41088).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation has occurred involving an employee of the Dallas, Texas facility of RF Monolithics, Inc. located in Gillsville, Georgia. Ms. Elizabeth Johnson provided sales support services for the production of electronic low-power components that is produced at the Dallas, Texas location of the subject firm.

Based on these findings, the Department is amending this certification to include an employee of the Dallas, Texas facility of RF Monolithics, Inc. located in Gillsville, Georgia. The intent of the Department's certification is to include all workers of RF Monolithics, Inc., Dallas, Texas who were adversely affected by increased company imports.

The amended notice applicable to TA–W–61,705 is hereby issued as follows:

All workers of RF Monolithics, Inc., Dallas, Texas (TA–W–61,705), including an employee in support of RF Monolithics, Inc., Dallas, Texas located in Gillsville, Georgia (TA–W–61,705A), who became totally or partially separated from employment on or after June 18, 2006, through July 13, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of October 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21745 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of October 22 through October 26, 2007.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–62,292; Storeroom Solutions, Working On-Site at Wheatland Tube Co., Little Rock, AR: October 11, 2006.

TA–W–61,915; Vanson Leathers, Inc., Fall River, MA: August 1, 2006.

TA–W–62,123; Aeroteck, Workers On-Site at Delphi Corp., Automotive Holdings Group, Instrument Cluster, Flint, MI: September 4, 2006.

TA–W–62,143; Defiance Precision Products, Defiance, OH: September 13, 2006.

TA–W–62,146; Drivesol Worldwide, Inc., Lyons, OH: September 7, 2006.

TA–W–62,154; Taylor Togs, Inc., Taylorsville, NC: September 17, 2006.

TA–W–62,204; Lenox, Inc., A Subsidiary of Lenox Group, Inc., Pomona, NJ: May 25, 2007.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–62,051; Actown Electrocoil, Inc., A Division of Actuant Corp., Spring Grove, IL: August 23, 2006.

TA–W–62,089; The Hershey Company, Naugatuck Plant, On-Site Leased Workers of Hudson Global, Naugatuck, CT: August 31, 2006.

TA–W–62,168; Sensata Technologies, Standish Division, Standish, ME: September 17, 2006.

TA–W–62,175; Masys Corporation, A Subsidiary of IPC Systems, Inc., Minneapolis, MN: September 14, 2006.

TA–W–62,259; Dekko Technologies, Inc., Mt. Ayr Products Division, Mt. Ayr, IA: September 28, 2006.

TA–W–62,298; Delphi Corporation, Thermal—Vandalia Plant, Vandalia, OH: October 11, 2006.

TA–W–62,302; Aalfs Manufacturing, Sample Sewing Laundry, Mena, AR: October 7, 2006.

TA–W–62,307; Robert Bosch, LLC, Automotive Technology -Chassis Division, On-Site Leased Workers from Staffmark, Securitas &

Southern Universal, Gallatin, TN: August 6, 2007.

TA–W–62,320; Precision Industries, A Division of Leggett and Platt Aluminum Group, Malvern, AR: October 17, 2006.

TA–W–62,329; Honeywell Sensing and Control, ACS Division, On-Site Leased Workers From Manpower, Sarasota, FL: October 17, 2006.

TA–W–62,163; Smart Novelty Blouse Co., Inc., New York, NY: September 17, 2006.

TA–W–62,196; Carlisle Tire and Wheel, Leased Workers of Seek, Inc., and JNA Temporary Services, Slinger, WI: September 21, 2006.

TA–W–62,256; Aearo Technologies, On-Site Leased Workers of Coworx, Diamond Staffing, Southbridge, MA: October 1, 2006.

TA–W–62,257; New England Ladder and Scaffolding Company, Subsidiary of Lynn Lab Group LTD, Orwigsburg, PA: September 17, 2006.

TA–W–62,268; Dixie Consumer Products, LLC, Dixie Products Division, On-Site Leased Workers of Staffmark, Los Angeles, CA: September 11, 2006.

TA–W–62,288; Fiberweb, Inc., Industrial Division, On-Site Leased Workers from Phillips Staffing, Gray Court, SC: October 10, 2006.

TA–W–62,311; L.R. Nelson Corporation, Peoria, IL: June 21, 2007.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–62,095; Bremer Manufacturing Company, Inc., Elkhart Lake, WI: August 29, 2006.

TA–W–62,151; Johnson Controls, Inc., Automotive ExperienceDivision, Plymouth, MI: September 14, 2006.

TA–W–62,169; The Flexaust Company, Inc., Workers paid under Flexaust Appliance, On-Site Leased Workers of Encore Staffing, El Paso, TX: September 14, 2006.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–62,179; Desa Heating, LLC, Manchester, TN.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–61,957; Command Tooling Systems, LLC, Ramsey, MN.

TA–W–62,122; Stanadyne Corporation, Windsor, CT.

TA–W–62,144; R.J. Reynolds Tobacco Co., Blacksburg Storage Facility Division, Blacksburg, SC.

TA–W–62,141; Conn-Selmer, Inc., Elkhart North Facility, Elkhart, IN.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–62,264; Conexant Systems, Inc., Imaging and PC Media, Newport Beach, CA.

TA–W–62,215; Intuit, Inc., Professional Tax and Customer Service Group, Plano, TX.

TA–W–62,310; Healthcare Management Partners, LLC, Santa Ana, CA.

TA–W–62,328; Thompson Scientific, Cherry Hill, NJ.

TA–W–62,340; Commonwealth Land Title Co., Northern CA. Production Center, A Division of Landamerica Financial Group, Martinez, CA.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of October 22 through October 26, 2007. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 31, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–21743 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,530]

Track Corporation, Including On-Site Leased Workers of Forge Industrial and Manpower, Inc., Spring Lake, MI; Amended Notice of Revised Determination on Reconsideration

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Notice of Revised Determination on Reconsideration on August 23, 2007. The notice was published in the **Federal Register** on August 30, 2007 (72 FR 50128).

At the request of the State agency, the Department reviewed the Notice of Revised Determination on Reconsideration for workers of the subject firm. The workers are engaged in the production of seat adjusters for the automotive industry and public seating for stadiums and theaters. The workers are separately identifiable by product

line. The TAA/ATAA petition was filed on behalf of workers engaged in the production of seat adjusters.

New information shows that leased workers of Manpower, Inc. were employed on-site at the Spring Lake, Michigan location of Track Corporation. The Department has determined that these workers were sufficiently under the control of Track Corporation to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Manpower, Inc. working on-site at the Spring Lake, Michigan location of the subject firm.

The intent of the Department's certification is to include all workers employed at Track Corporation, Spring Lake, Michigan who were adversely-impacted by increased imports of seat adjusters.

The amended notice applicable to TA–W–61,530 is hereby issued as follows:

All workers of Track Corporation, including on-site leased workers of Forge Industrial and Manpower, Inc., Spring Lake, Michigan, engaged in the production of seat adjusters, who became totally or partially separated from employment on or after May 16, 2006, through August 23, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of October 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21744 Filed 11–5–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Notice of Proposed Information Collection: Assessing Trends and Results of the Laura Bush 21st-Century Librarians Grant Program 2003–2008

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and Humanities.

SUMMARY: The Institute of Museum and Library Services (IMLS) as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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. 3508(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. The Institute of Museum and Library Services is soliciting comments on a proposed study to assess the effectiveness of various methods used to distribute funds to the nation's museums.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 7, 2008.IMLS 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 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.

ADDRESSES: Send comments to: Mamie Bittner, Deputy Director, Office of Policy, Planning, Research, and Communications, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Bittner can be reached by telephone: 202–653–4630; fax: 202–653–4600; or e-mail: *mbittner@imls.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is authorized by the Museum and Library Services Act, Public Law 108–81, and is the primary source of federal support for the nation's 122,000 libraries and 17,500 museums. The Institute's mission is to create strong libraries and museums that connect people to information and ideas. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development.

II. Current Actions

The IMLS Laura Bush 21st-Century Librarian grant program was initiated at the request of the President in 2002 to help address the anticipated retirement of a very large cohort of library professionals before the year 2010, and to help assure that libraries are well staffed and well prepared to meet the needs of a population that is steadily increasing in cultural and language diversity throughout the United States. This program has made 172 grants between 2003 and 2007. IMLS wishes to understand trends and results of grants and activities in the Laura Bush 21st-Century Librarian program to date. The analysis will be framed by five key questions:

(1) What impact has this program made on numbers and demography of individuals seeking professional degrees and employment in the fields of library and information sciences?

(2) What impact has this program made on the numbers and demography of individuals employed in library and information sciences, in library service, and in the education and training of library and information science personnel?

(3) What impact has this program had on the career development of individuals employed in the delivery of library and information services, and in the education and training of such individuals?

(4) What impact has this program made on the understanding of key issues and phenomena related to the delivery and effectiveness of library and information service?

(5) Is there a continuing need for this program, and if so, what are the key needs that should be met in the next five years?

Once completed, the results of the study will be incorporated into a report which will be made widely available to inform and benefit the museum community and the public at large.

Agency: Institute of Museum and Library Services.

Title: Assessing Trends an Results of the Laura Bush 21st-Century Librarians Grant Program 2003–2008.

OMB Number: N/A.

Agency Number: 3137.

Frequency: One time.

Affected Public: Libraries, State Library Administrative Agencies, institutions of higher education, library professional associations, Native American tribal governments, school officials and educators, and individuals.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Deputy Director, Office of Policy, Planning, Research, and Communications, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Bittner can be reached by telephone: 202–653–4630; fax: 202–653–4600; or e-mail: *mbittner@imls.gov*.

Dated: October 31, 2007.

Barbara Smith,

E-Projects Officer.

[FR Doc. E7–21706 Filed 11–5–07; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Power Company, LLC; Oconee Nuclear Station, Units 1, 2, and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Renewed Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, issued to Duke Power Company, LLC (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Seneca, South Carolina. Therefore, as required by Title 10 of the *Code of Federal Regulations,* Part 51, Section 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action is administrative in nature and would revise the Technical Specifications (TSs) to remove requirements that are no longer applicable due to the completion of the control room intake/booster fan modifications.

The proposed action is in accordance with the licensee's application dated January 31, 2007.

The Need for the Proposed Action

The proposed action removes requirements from the TSs that are no longer applicable.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that there are no environmental impacts.

The details of the staff's safety evaluation will be provided in the license amendments that will be issued as part of the letter to the licensee approving the license amendments.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Oconee Nuclear Station, Units 1, 2, and 3, dated March 1972 and Final Supplemental Environmental Impact Statement (NUREG–1437, Supplement 2) dated December 9, 1999.

Agencies and Persons Consulted

In accordance with its stated policy, on October 18, 2007, the staff consulted with the South Carolina State official, Mr. R. Mike Gandy of the Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 31, 2007. Documents may be examined and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 31st day of October 2007.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–21777 Filed 11–5–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of November 5, 12, 19, 26; December 3, 10, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of November 5, 2007

There are no meetings scheduled for the week of November 5, 2007.

Week of November 12, 2007—Tentative

Wednesday, November 14, 2007

9:30 a.m.

Meeting with Advisory Committee on Nuclear Waste and Materials (ACNW&M) (Public Meeting) (Contact: Antonio Dias, 301–415–6805).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of November 19, 2007—Tentative

There are no meetings scheduled for the week of November 19, 2007.

Week of November 26, 2007—Tentative

Tuesday, November 27, 2007

9:30 a.m.
Discussion of Security Issues (Closed—Ex. 1 & 3).
1:30 p.m.
Briefing on Equal Employment Opportunity (EEO) Programs (Public Meeting) (Contact: Sandra Talley, 301–415–8059).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of December 3, 2007—Tentative

Tuesday, December 4, 2007

9:30 a.m.
Briefing on Threat Environment Assessment (Closed—Ex. 1).

Friday, December 7, 2007

10 a.m.
Discussion of Intragovernmental Issues (Closed—Ex. 1 & 9).

Week of December 10, 2007—Tentative

Wednesday, December 12, 2007

9:30 a.m.
Discussion of Management Issues (Closed—Ex. 2).

Thursday, December 13, 2007

9:30 a.m.
Discussion of Management Issues (Closed—Ex. 2).

* 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: November 1, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–5570 Filed 11–6–07; 11:05 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

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 October 11, 2007, to October 24, 2007. The last biweekly notice was published on October 23, 2007 (72 FR 60032).

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 6D44, 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, person(s) 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 via electronic submission through the NRC E-Filing system 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 person(s) 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 hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007, (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/ requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/ petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC

technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted 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; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, *Attention:* Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submission.

Non-timely 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 amendment 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. 50–341, Fermi 2, Monroe County, Michigan Date of amendment request: July 12, 2007, as supplemented by letter dated September 21, 2007.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 3.3.3.1.2 in Technical Specification (TS) 3.3.3.1, ''Post Accident Monitoring Instrumentation.'' Specifically, the proposed amendment would delete the note which excludes radiation detectors from calibration requirements.

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. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Primary Containment Radiation Monitors are part of the post accident monitoring instrumentation. Deleting the note excluding radiation detectors from the channel calibration requirement in TS 3.3.3.1 surveillance requirement does not adversely affect any of the parameters in accident analyses. Revising the detectors calibration requirement does not affect the probability or consequences of previously evaluated accidents. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deleting the note excluding the radiation detectors from channel calibration requirement in SR 3.3.3.1.2 restores the calibration of the primary containment high range radiation monitors to the requirements in NUREG–0737 [,''Clarification of TMI Action Plan Requirements''], Table II.F.1–3. The revision of the primary containment high range radiation monitor calibration provides an improved assurance of the accuracy and function of the monitor during and following an accident. These monitors provide indication of high-range radiation and are primarily used by emergency response personnel for evaluating protective action recommendations. These monitors are provided for indication only and do not initiate any automatic action. Removing the exclusion of radiation detectors from the channel calibration requirement in SR 3.3.3.1.2 cannot create a new or different kind of accident from previously evaluated accidents. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

This proposed license amendment involves a change in the channel calibration surveillance of primary containment high range radiation monitor in TS 3.3.3.1. The surveillance frequency is unchanged. The change in the high range radiation monitor channel calibration only removes the exclusion of the detectors from SR 3.3.3.1.2. 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: David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Acting Branch Chief: Travis L. Tate.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 21, 2007.

Description of amendment request: The proposed amendment would modify technical specification (TS) requirements related to control room envelope (CRE) habitability in TS 3.7.10, ''Control Room Ventilation Filtration,'' and TS Section 5.5, ''Administrative Controls—Programs and Manuals.'' The NRC staff issued a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible amendments in accordance with TSTF–448–A, Revision 3, to revise the plant specific TS to strengthen requirements regarding CRE habitability by changing

the action and surveillance requirements for the CRE emergency ventilation system, and by adding a new TS administrative controls program on CRE habitability.

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 no significant hazards determination in its application dated August 21, 2007.

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:

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 I 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: Mr. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Acting Branch Chief: Travis L. Tate.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: October 5, 2007.

Description of amendment request: The proposed amendment changes the containment sump buffering agent in Technical Specification (TS) 3.6.2.2, ''Trisodium Phosphate (TSP),'' from TSP to sodium tetraborate (NaTB).

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.

There are no changes to the design or operation of the plant that could affect system, component, or accident functions as a result of replacing trisodium phosphate (TSP) with sodium tetraborate (NaTB). Buffering agents are used to minimize the potential consequences of an accident and do not represent an accident initiator. Utilizing NaTB as a buffering agent ensures the post-loss-of-coolant accident (LOCA) containment sump mixture will have an equilibrium pH ≥ 7.0. Replacing TSP with NaTB, which achieves comparable pH buffering results, will maintain the iodine retention and corrosion inhibition required by the safety analyses.

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.

No new accident scenarios, failure mechanisms, or single failures are introduced as a result of the proposed change. Structures, systems, and components previously required for mitigation of an event remain capable of fulfilling their intended design function with this change to the TS. The proposed change has no new adverse effects on safety-related systems or components and does not challenge the performance or integrity of safety-related systems. The replacement buffering agent has been evaluated and no new accident scenarios or single failures are introduced.

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 safety analyses assume a post-LOCA equilibrium pH ≥ 7.0 to minimize iodine re-evolution and to minimize corrosion of components within containment. Changing the containment sump buffering agent requirement from TSP to NaTB and revising the required volume of NaTB continues to ensure a containment sump equilibrium pH ≥ 7.0. The margin for pH control is not altered by the proposed changes.

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: Terence A. Burke, Associate General Council—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Thomas G. Hiltz.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: July 17, 2007.

Description of amendment request: The proposed amendment would revise the Seabrook Station, Unit No. 1 Technical Specifications (TSs) related to control room envelope (CRE) habitability consistent with Technical Specification Task Force (TSTF) change traveler TSTF–448, Revision 3, ''Control Room Habitability.''

The NRC staff issued a notice of availability of a model safety evaluation, a model no significant hazards consideration (NSHC) determination, and a model license amendment request in the **Federal Register** on January 17, 2007 (72 FR 2022). In its application dated July 17, 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 no significant hazards consideration, is presented below:

1. The proposed changes do 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.

2. The proposed changes do 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.

3. The proposed changes do 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 shutdown 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 no significant hazards consideration.

Attorney for licensee: M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Harold K. Chernoff.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: September 17, 2007.

Description of amendment request: The proposed amendment would revise the MNGP Technical Specifications (TS) by adding an Action Statement to the Limiting Condition for Operation (LCO) for Specification 3.7.5, ''Control Room Ventilation System.'' The new Action Statement will allow a finite time (72 hours) to restore one control room ventilation subsystem to operable status when both ventilation subsystems are inoperable, provided the control room temperature is verified to be less than 90 degrees once every 4 hours.

The proposed amendment is consistent with the NRC's approved Technical Specification Task Force (TSTF) Improved Standard Technical Specifications Change Traveler, TSTF–477, Revision 3 (March 26, 2007; 72 FR 14143).

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC) by referencing the NRC staff's model NSHC analysis published on December 18, 2006 (71 FR 75774). The NRC staff's model NSHC analysis is reproduced 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[; it] 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 pant 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 licensee 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. Based upon the reasoning above, the NRC staff concludes that the amendment request involves no significant hazards consideration.

The NRC staff has reviewed the licensee's referenced analysis, and has found that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Acting Branch Chief: Travis L. Tate.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 21, 2007.

Description of amendment request: The proposed amendment will revise the Technical Specifications (TS) safety limit (SL) requirements related to the use of a non-cycle specific peak linear heat rate (PLHR) SL of 22 kilowatts per foot (kW/ft) to fuel centerline melt. The proposed change is consistent with the Technical Specification Task Force (TSTF) 445–A, Revision 1. Because these Limiting Safety System Setting (LSSS) values appear in the Fort Calhoun Station, Unit 1 (FCS), TS Bases section of TS 1.3, ''Limiting Safety System Settings, Reactor Protective System,'' TS 1.0, ''Safety Limits and Limiting Safety System Settings,'' will be revised to more clearly align with the Combustion Engineering (CE) Standard Technical Specifications (STS) 2.0 in content. Therefore, TS Section 1.1, ''Safety Limits—Reactor Core,'' will be revised to incorporate the TSTF–445–A, Revision 1, peak fuel centerline temperature (PFCT) criteria, and TS 1.2, ''Safety Limits—Reactor Coolant System Pressure,'' will be revised to incorporate the SL violation action which is currently delineated in administrative control TS 5.7.1. TS Section 1.3 will be relocated to the currently unused TS Section 2.13 to be more consistent with the content of the CE STS (i.e., the LSSS will be located in the Limiting Conditions for Operation (LCO) section of the FCS TS which is similar to the LCO/Surveillance Requirements Section 3.0 of the STS). As noted above, the administrative control in TS 5.7.1, ''Safety Limit Violation,'' will be relocated to TS Section 2.13. Also, administrative control TS 5.9.5, ''Core Operating Limits Report (COLR),'' item a., will be revised to add TS 2.13, ''RPS Limiting Safety System Settings,'' Table 2–11, Items 6, 8, and 9, to the list of items that shall be documented in the COLR. The TS table of contents (TOC) will be updated to reflect the deletion and subsequent renumbering of TS 1.3 and Table 1–1 to TS 2.13 and Table 2–11, respectively. In addition, the TOC will be updated to delineate the new TS subsections 1.1.1 and 1.1.2, provide the revised titles for TS 1.0, 1.1, 1.2, and 2.13, and to reflect TS 5.7.1 as ''Not used.''

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 does not require any physical change to any plant systems, structures, or components nor does it require any change in systems or plant operations. The proposed change does not require any change in safety analysis methods or results. The change to establish the PFCT as the safety limit is consistent with the FCS licensing basis for ensuring that the fuel design limits are met. Operations and analysis will continue to be in compliance with NRC regulations.

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 accident analyses indicate that the peak linear heat rate may exceed the present Limiting Safety System Setpoint of 22 kW/ft during the Control Element Assembly (CEA) Drop, Excess Load, and Loss of Feedwater Heating events. The analyses for these [anticipated operational occurrences] indicate that the PFCT is not significantly challenged or exceeded. The existing analyses remain unchanged and do not affect any accident initiators that would create a new accident.

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 amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not require any change in accident analysis methods or results. Therefore, by changing the SL from PLHR to peak fuel centerline melt temperature, the margin, as established in the current licensing basis, remains unchanged. The proposed administrative change relocates descriptive information from one section of the TS to another TS section, thereby maintaining the information in the FCS TS, which has no effect on safety margins.

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: James R. Curtiss, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Thomas G. Hiltz.

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, Appling County, Georgia

Date of amendment request: October 3, 2007.

Description of amendment request: The Edwin I. Hatch Nuclear Plant, Units 1 and 2, requests adoption of an approved change to the Standard Technical Specifications (STSs) for Boiling Water Reactor (BWR) plants (NUREG–1433 and NUREG–1434) and plant-specific technical specifications (TSs), to allow the use of the improved banked position withdrawal sequence (BPWS) during shutdowns in accordance with NEDO–33091–A, Revision 2, ''Improved BPWS Control Rod Insertion Process,'' dated July 2004. The changes are consistent with NRC-approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–476, Revision 1.

The Nuclear Regulatory Commission (NRC) staff published a notice of availability of a model safety evaluation and model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on May 23, 2007, (72 FR 29004) as apart of the consolidated line-term improvement process (CLIIP), and a correction on May 30, 2007, (72 FR 30043). The licensee affirmed the applicability of the model NSHC determination in its application dated October 3, 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 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 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 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 an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the 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 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 has reviewed the 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., 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, Appling County, Georgia

Date of amendment request: October 5, 2007.

Description of amendment request: The proposed amendments would add a 72-hour Completion Time (CT) for an inoperable swing diesel generator. Currently, the Technical Specifications (TSs) provide a 14-day CT which may be used provided that planned maintenance on certain plant components is restricted prior to entering, and for the duration of, the 14-day CT. The 72-hour CT and the 14-day CT are explicitly addressed in the TS Limiting Condition for Operation (LCO) for four of the five emergency diesel generators. In addition, the 14-day CT is explicitly addressed in the TS LCO for the fifth diesel generator, the swing diesel generator. Further, the existing 14-day CT and the proposed 72-hour CT are currently described in the TS Bases for LCO 3.8.1. This proposed change will provide an explicit reference to the 72-hour CT in the actual TS for the swing diesel.

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?

The proposed change will explicitly add, to the Technical Specifications (TS), a 72 hour CT for the swing diesel generator in addition to the 14 day CT already listed. The 72 hour CT is currently imposed on the swing DG until it can be verified that planned maintenance restrictions are in place. Mention of the planned restrictions is also being added to the specifications for the dedicated DGs for consistency. This TS change does not propose any physical changes to systems or components that are important to safety, including those systems that are designed to prevent previously evaluated accidents, or to mitigate the consequences of those accidents.

Additionally, this proposed TS change does not change any safety analyses for LOCA/LOSP [loss-of-coolant accident/loss-

of-offsite power] with respect to diesel generator availability or capabilities. This change does not request an increase to the diesel generator out of service CT, in fact, it acts to enforce a 72 hour CT for the swing diesel.

Consequently, this TS change does not significantly increase the probability or consequences of a previously evaluated accident.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed TS change explicitly adds a 72 hour CT to the swing diesel generator ''Completion Time'' column of LCO 3.8.1, and adds mention of the planned maintenance restrictions to the same column for the dedicated DGs as well. These TS changes will reflect the current practices of the operating staff with respect to the handling of inoperable diesel generators. No requests are being made to increase the CTs for the diesel generators; instead, the more restrictive 72 hour CT for the swing diesel is being explicitly added to the TS, which currently only includes the 14 day CT.

No changes are being made to the operations, maintenance, or testing of plant equipment. No new modes of operation are proposed and therefore, no new failure modes are introduced.

Consequently, 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 the margin of safety?

This TS change will include a more restrictive 72 hour CT for the swing diesel generator in addition to the 14 day CT currently listed in the TS. The 72 hour CT will reflect that planned maintenance restrictions must be in place before using the 14 day CT on the swing DG. For consistency, mention of the maintenance restrictions is being added to the CT for the dedicated DGs as well. These changes are more restrictive than what is currently included in the TS. Accordingly, the changes do not involve a significant reduction in the 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.

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 51.22(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*.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: March 22, 2007, as supplemented by letter dated July 25, 2007.

Brief description of amendment: The amendment consists of changes to various technical specifications (TSs) related to the variable low reactor coolant system pressure-temperature core protection safety limit, which is being changed to accommodate the introduction of AREVA NP's Mark–B–HTP fuel design in the TMI–1 cycle 17 reload (fall 2007).

Date of issuance: October 15, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No. 262.

Facility Operating License No. DPR–50. Amendment revised the license and the TSs.

Date of initial notice in ***Federal Register***: April 24, 2007 (72 FR 20377). The supplement dated July 25, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed and did not change the NRC staff's original proposed no significant hazards determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 2007.

No significant hazards consideration comments received: No.

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 application for amendment: November 1, 2006, as supplemented by letters dated November 22, 2006, April 4, May 7, August 16, and September 21, 2007.

Brief description of amendment: The change revised the Grand Gulf Nuclear Station, Unit 1, Technical Specification Surveillance Requirement 3.3.1.1.7 for the surveillance interval of the local power range monitor calibrations from 1000 megawatt-days per ton (MWD/T) (approximately every 36 days) to 2000 MWD/T (approximately every 72 days).

Date of issuance: October 24, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 177.

Facility Operating License No. NPF–29: The amendment revises the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register***: December 5, 2006 (71 FR 70559). The supplements dated November 22, 2006, April 4, May 7, August 16, and September 21, 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 October 24, 2007.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: November 17, 2006.

Brief description of amendments: The proposed amendment would modify the technical specifications (TS) to replace references to Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) with a reference to the ASME Code of Operation and Maintenance of Nuclear Power Plants in TS 5.5.7, ''Inservice Testing Program.'' These changes are consistent with the implementation of the LSCS, Units 1 and 2, for the third 10-year IST program.

Date of issuance: October 12, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 185/172.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** April 10, 2007 (72 FR 17948). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 12, 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.

Brief description of amendments: The amendments revise various technical specifications (TSs) to address requirements that should have been changed as part of amendments previously approved by the NRC, as well as to correct some typographical errors.

Date of Issuance: October 22, 2007.

Effective Date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 202 and 149.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised TSs.

Date of initial notice in ***Federal Register***: January 3, 2007 (72 FR 00153).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 22, 2007.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et. al., Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: February 12, 2007.

Brief description of amendment: This amendment revised Technical Specification 3/4.9.4, ''Containment Penetrations,'' to allow containment penetrations that provide direct access from the containment atmosphere to the outside to be open during refueling activities if appropriate administrative controls are established.

Date of issuance: October 17, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 277.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register***: April 10, 2007 (72 FR 17949).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 2007.

No significant hazards consideration comments received: No.

FPL Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: December 14, 2006, as supplemented by letter dated June 13, 2007.

Brief description of amendments: The amendments revised Technical Specification 5.6.5 (Reactor Coolant System (RCS) Pressure and Temperature Limits Report(to add the FERRET Code as an approved methodology for determining RCS pressure and temperature limits.

Date of issuance: October 18, 2007.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 229 and 234.

Renewed Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications/License.

Date of initial notice in ***Federal Register:*** January 16, 2007 (72 FR 1780).

The June 13, 2007, supplement, contained clarifying information and did not change the staff(s initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 18, 2007.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315, Donald C. Cook Nuclear Plant, Units 1 and 2 (DCCNP–1 and DCCNP–2), Berrien County, Michigan

Date of application for amendments: June 27, 2007, as supplemented on September 21, 2007.

Brief description of amendments: The amendments made changes to Sections 3.3.3, ''Post Accident Monitoring Instrumentation,'' 3.5, ''Emergency Core Cooling Systems,'' and 3.6.14, sbull I11''Containment Recirculation Drains,'' of the DCCNP–1 and DCCNP–2 Technical Specifications to reflect resolution of issues raised by Generic Letter (GL) 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation during Design Basis Accidents at Pressurized-Water Reactors.''

Date of issuance: October 18, 2007.

Effective date: As of the date of issuance, and shall be implemented prior to entry into Mode 4 following the DCCNP–1 spring 2008 refueling outage, and prior to entry into Mode 4 following the DCCNP–2 fall 2007 refueling outage.

Amendment No.: 282 and 299.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 31, 2007 (72 FR 41786).

The supplemental letter contained clarifying information, did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 18, 2007.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: July 26, 2007.

Brief description of amendment: The amendment removes values for turbine first stage pressure associated with P_{bypass} from the Technical Specifications (TSs). P_{bypass} is the reactor power level below which the turbine stop valve closure and the turbine control valve fast closure reactor protection system trip functions and the end-of-cycle

recirculation pump trip are bypassed automatically.

Date of issuance: October 16, 2007.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 172.

Facility Operating License No. NPF–57: The amendment revised the TSs and the License.

Date of initial notice in ***Federal Register:*** August 14, 2007 (72 FR 45460).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 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: October 3, 2006, as supplemented on March 28 and June 19, 2007.

Brief Description of amendments: These amendments revised the Technical Specification Surveillance Requirements (SRs) to: (1) Change the required frequency of containment sump inspections, and (2) replace specific terminology associated with the existing sump screen design with generic terminology applicable to both the existing design and the replacement strainer being installed in response to the Nuclear Regulatory Commission's Generic Letter 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation during Design Basis Accidents at Pressurized-Water Reactors.''

Date of issuance: October 15, 2007.

Effective date: As of date of issuance and shall be implemented at the completion of Unit 1 fall 2007 refueling outage.

Amendment Nos.: 255, 254.

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:*** November 7, 2006 (71 FR 65146). The supplements dated March 28 and June 19, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staffs' original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 15, 2007.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

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 for the amendment 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective 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 application for amendment, (2) the amendment to Facility Operating License, 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 System's (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.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, person(s) 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 via electronic submission through the NRC E-Filing system 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 person(s) 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, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. *Environmental*—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. *Miscellaneous*—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

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. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007, (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer(™) is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m.

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted 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; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submission.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or 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).

Tennessee Valley Authority, Docket Nos. 50–328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: September 17, 2007.

Brief description of amendment: The amendment revises technical specification 3.6.1.9 on a one-time basis to allow an increase in the annual limit for purging and venting containment from 1000 hours to 1400 hours during 2007.

Date of issuance: October 11, 2007.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 308.

Facility Operating License Nos. DPR–79: Amendment revised the technical specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. 72 FR 54691, published September 26, 2007. The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided an opportunity to request a hearing within 60 days after the date of publication of the notice, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated October 11, 2007.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: Thomas H. Boyce.

Dated at Rockville, Maryland, this 25th day of October 2007.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing Office of Nuclear Reactor Regulation.

[FR Doc. E7–21435 Filed 11–5–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: C. Penn, Group Manager, Executive Resources Services Group, Center for Human Resources, Division for Human Capital Leadership and Merit System Accountability, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between September 1, 2007, and September 30, 2007. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for September 2007.

Schedule B

No Schedule B appointments were approved for September 2007.

Schedule C

The following Schedule C appointments were approved during September 2007.

Section 213.3303 Executive Office of the President

Office of Management and Budget

BOGS70020 Confidential Assistant to the Administrator, Office of Federal

Procurement Policy. Effective September 11, 2007.

BOGS70021 Confidential Assistant to the Controller, Office of Federal Financial Management. Effective September 18, 2007.

Section 213.3304 Department of State

DSGS61252 Special Assistant to the Assistant Secretary for Economic and Business Affairs. Effective September 7, 2007.

DSGS61255 Staff Assistant to the Assistant Secretary for Public Affairs. Effective September 11, 2007.

DSGS66856 Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective September 11, 2007.

DSGS61258 Special Assistant to the Principal Deputy Assistant Secretary. Effective September 14, 2007.

DSGS61257 Special Assistant to the Legal Adviser. Effective September 19, 2007.

DSGS61261 Staff Assistant to the Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs. Effective September 26, 2007.

DSGS61275 Special Assistant to the Under Secretary for Arms Control and Security Affairs. Effective September 26, 2007.

DSGS61253 Protocol Officer (Visits) to the Chief of Protocol. Effective September 28, 2007.

DSGS61254 Senior Public Affairs Officer to the Chief of Protocol. Effective September 28, 2007.

Section 213.3305 Department of the Treasury

DYGS00453 Media Coordinator to the Assistant Secretary (Public Affairs) and Director of Policy Planning. Effective September 7, 2007.

DYGS00250 Director, Public Affairs to the Deputy Assistant Secretary (Public Affairs). Effective September 20, 2007.

Section 213.3306 Department of Defense

DDGS17092 Supervisory Staff Assistant to the Deputy Assistant Secretary of Defense (Near East and South Asian Affairs). Effective September 4, 2007.

DDGS17100 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs. Effective September 10, 2007.

DDGS17083 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Effective September 14, 2007.

DDGS17097 Staff Assistant to the Principal Deputy Under Secretary of Defense for Policy. Effective September 14, 2007.

DDGS17101 Public Affairs Specialist to the Assistant Secretary of Defense, Public Affairs. Effective September 14, 2007.

DDGS17102 Staff Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective September 14, 2007.

DDGS17103 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs. Effective September 14, 2007.

DDGS17106 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs). Effective September 17, 2007.

DDGS17107 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs). Effective September 17, 2007.

DDGS17105 Public Affairs Specialist to the Assistant Secretary of Defense, Public Affairs. Effective September 20, 2007.

DDGS17104 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective September 24, 2007.

DDGS17111 Special Assistant to the Principal Deputy Assistant Secretary of Defense (Global Security Affairs). Effective September 24, 2007.

Section 213.3308 Department of the Navy

DNGS02224 Confidential Assistant to the Assistant Secretary of Navy (Installations and Environment). Effective September 6, 2007.

DNGS07355 Director for Strategic Initiatives to the Special Assistant to the Secretary. Effective September 26, 2007.

DNGS07368 Staff Assistant to the Special Assistant to the Secretary. Effective September 26, 2007.

Section 213.3310 Department of Justice

DJGS00094 Counsel to the Assistant Attorney General. Effective September 6, 2007.

DJGS00327 Public Affairs Specialist to the Director, Office of Public Affairs. Effective September 7, 2007.

DJGS00359 Public Affairs Specialist to the Director, Office of Public Affairs. Effective September 7, 2007.

DJGS00323 Counsel to the Principal Deputy Assistant Attorney General. Effective September 24, 2007.

DJGS00405 Special Assistant to the Assistant Attorney General, Office of Justice Programs. Effective September 28, 2007.

Section 213.3311 Department of Homeland Security

DMGS00715 Executive Officer to the Deputy Administrator for National Preparedness. Effective September 7, 2007.

DMGS00708 Advisor to the Assistant Secretary for Infrastructure Protection. Effective September 12, 2007.

DMGS00718 Senior Advisor to the Director, Bureau of Citizenship and Immigration Services. Effective September 18, 2007.

DMGS00713 Special Assistant to the Chief of Staff. Effective September 26, 2007.

DMGS00716 Associate Executive Secretary for White House/Interagency Coordination and Briefing Books to the Executive Secretary. Effective September 26, 2007.

Section 213.3313 Department of Agriculture

DAGS00919 Special Assistant to the Administrator, Food and Nutrition Service. Effective September 14, 2007.

DAGS00920 Confidential Assistant to the Administrator. Effective September 25, 2007.

Section 213.3314 Department of Commerce

DCGS00193 Senior Advisor to the Deputy Assistant Secretary for Industry Analysis. Effective September 7, 2007.

DCGS00468 Special Assistant to the Under Secretary of Commerce for Industry and Security. Effective September 14, 2007.

DCGS00473 Special Assistant to the General Counsel. Effective September 20, 2007.

DCGS00553 Confidential Assistant to the Assistant Secretary for Export Enforcement. Effective September 20, 2007.

DCGS00562 Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective September 20, 2007.

DCGS00262 Special Assistant to the Deputy Assistant Secretary for Services. Effective September 28, 2007.

DCGS00547 Confidential Assistant to the Deputy Under Secretary and Deputy Director of U.S. Patent and Trademark Office. Effective September 28, 2007.

DCGS60637 Special Assistant to the Executive Director for Trade Promotion and Outreach. Effective September 28, 2007.

Section 213.3315 Department of Labor

DLGS60137 Staff Assistant to the Assistant Secretary for Public Affairs. Effective September 18, 2007.

DLGS60043 Special Assistant to the Assistant Secretary for Occupational

Safety and Health. Effective September 19, 2007.

DLGS60170 Special Assistant to the Director, Office of Faith Based and Community Initiatives. Effective September 19, 2007.

DLGS60255 Counselor to the Deputy Secretary of Labor. Effective September 19, 2007.

DLGS60042 Special Assistant to the Assistant Secretary for Public Affairs. Effective September 26, 2007.

Section 213.3316 Department of Health and Human Services

DHGS60016 Confidential Assistant to the Director, Center for Faith Based and Community Initiatives. Effective September 7, 2007.

DHGS60542 Confidential Assistant to the Administrator Centers for Medicare and Medicaid Services. Effective September 7, 2007.

DHGS60627 Confidential Assistant to the Administrator, Substance Abuse and Mental Health Services. Effective September 26, 2007.

Section 213.3317 Department of Education

DBGS00637 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective September 6, 2007.

DBGS00636 Confidential Assistant to the Assistant Secretary for Postsecondary Education. Effective September 7, 2007.

DBGS00638 Confidential Assistant to the Chief of Staff. Effective September 7, 2007.

DBGS00642 Confidential Assistant to the Assistant Deputy Secretary for Safe and Drug-Free Schools. Effective September 12, 2007.

DBGS00643 Confidential Assistant to the Assistant Secretary, Office of Communications and Outreach. Effective September 12, 2007.

DBGS00647 Special Assistant to the Assistant Secretary, Office of Communications and Outreach. Effective September 21, 2007.

DBGS00648 Confidential Assistant to the Assistant Secretary for Civil Rights. Effective September 21, 2007.

DBGS00639 Special Assistant to the Director, White House Initiative on Hispanic Education. Effective September 28, 2007.

DBGS00641 Chief of Staff to the Chief Financial Officer. Effective September 28, 2007.

DBGS00649 Confidential Assistant to the Director, Scheduling and Advance Staff. Effective September 28, 2007.

Section 213.3318 Environmental Protection Agency

EPGS0702 Special Assistant to the Administrator/Executive Assistant to the Assistant Administrator for International Activities. Effective September 12, 2007.

Section 213.3323 Federal Communications Commission

FCGS07224 Assistant Chief to the Chief, Office of Strategic Planning and Policy Analysis. Effective September 7, 2007.

Section 213.3331 Department of Energy

DEGS00612 Special Assistant to the Director, Office of Scheduling and Advance. Effective September 7, 2007.

DEGS00613 Senior Advisor to the Director, Office of Scheduling and Advance. Effective September 7, 2007.

DEGS00614 Trip Coordinator to the Director, Office of Scheduling and Advance. Effective September 7, 2007.

DEGS00616 Special Assistant to the Assistant Secretary for Policy and International Affairs. Effective September 19, 2007.

Section 213.3332 Small Business Administration

SBGS00632 Speechwriter to the Associate Administrator for Communications and Public Liaison. Effective September 5, 2007.

SBGS00583 Deputy Assistant Administrator for Policy and Strategic Planning to the Associate Administrator for Policy. Effective September 6, 2007.

SBGS00633 Congressional Liaison to the Assistant Administrator for Congressional and Legislative Affairs. Effective September 7, 2007.

SBGS00619 Senior Policy Analyst to the Assistant Administrator for Policy and Strategic Planning. Effective September 18, 2007.

Section 213.3337 General Services Administration

GSGS00165 Senior Advisor to the Chief of Staff. Effective September 12, 2007.

GSGS00180 Confidential Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective September 18, 2007.

GSGS00099 Senior Advisor to the Regional Administrator, Region 3, Philadelphia, Pennsylvania. Effective September 28, 2007.

Section 213.3342 Export-Import Bank

EBSL45010 Senior Vice President and General Counsel to the President and Chairman. Effective September 25, 2007.

Section 213.3379 Commodity Futures Trading Commission

CTOT00082 Chief of Staff to the Chairperson. Effective September 18, 2007.

CTOT00097 Administrative Assistant to the Commissioner. Effective September 24, 2007.

Section 213.3384 Department of Housing and Urban Development

DUGS60472 Deputy Assistant Secretary for Legislative Relations to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective September 6, 2007.

DUGS60534 Deputy Director to the Director, Center for Faith Based and Community Initiatives. Effective September 11, 2007.

DUGS60596 Staff Assistant to the General Deputy Assistant Secretary for Public Affairs. Effective September 28, 2007.

Section 213.3391 Office of Personnel Management

PMGS00043 White House Liaison to the Chief of Staff and Director of External Affairs. Effective September 25, 2007.

PMGS00070 Deputy White House Liaison to the Chief of Staff and Director of External Affairs. Effective September 25, 2007.

Section 213.3394 Department of Transportation

DTGS60294 Counselor to the Under Secretary of Transportation for Policy. Effective September 12, 2007.

DTGS60369 Deputy Assistant Secretary for Governmental Affairs to the Assistant Secretary for Governmental Affairs. Effective September 24, 2007.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Howard C. Weitzman,

Deputy Director.

[FR Doc. E7–21767 Filed 11–5–07; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor

Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 237, SEC File No. 270–465, OMB Control No. 3235–0528.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). In cases where these individuals move to the United States, these participants (''Canadian/U.S. Participants'' or ''participants'') may not be able to manage their Canadian retirement account investments. Most securities and most investment companies (''funds'') that are ''qualified investments'' for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirements of the Securities Act of 1933 (''Securities Act'').[1] As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants, in the past, had not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

In 2000, the Commission issued a rule that enabled Canadian/U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian/U.S. Participants and sales to their accounts.[2] Rule 237 under the Securities Act[3] permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act.

Rule 237 requires written offering materials for securities that are offered and sold in reliance on the rule to disclose prominently that those securities are not registered with the Commission and may not be offered or sold in the United States unless they are registered or exempt from registration under the U.S. securities laws. Rule 237 does not require any documents to be filed with the Commission. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The Commission understands that there are approximately 3,500 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian/U.S. Participants. The staff estimates that in any given year approximately 35 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 35 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 105 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 35 respondents[4] would be required to make 105 responses by adding the new disclosure statements to approximately 105 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 17.5 hours (105 offering documents x 10 minutes per document). The total annual cost of burden hours is estimated to be $5,110.00 (17.5 hours x $292[5] per hour of attorney time).

In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian/U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. Because Canadian law strictly limits the amount of foreign investments that may be held in a Canadian retirement account, however, the staff believes that the number of issuers from other countries that relies on rule 237, and that therefore is required to comply with the offering document disclosure requirements, is negligible.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 31, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21737 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 77.

[2] See Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Account, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)].

[3] 17 CFR 230.237.

[4] This estimate of respondents also assumes that all respondents are foreign issuers. The number of respondents may be greater if foreign underwriters or broker-dealers draft a sticker or supplement to add the required disclosure to an existing offering document.

[5] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry Association. $292 per hour figure for an attorney is from the SIA Report on Management & Professional Earnings in the Securities Industry 2006, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 7d–2, SEC File No. 270–465, OMB Control No. 3235–0528.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). In cases where these individuals move to the United States, these participants (''Canadian/U.S. Participants'' or ''participants'') may not be able to manage their Canadian retirement account investments. Most securities and most investment companies (''funds'') that are ''qualified investments'' for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirements of the Securities Act of 1933 (''Securities Act'') [1] and, in the case of securities of an unregistered fund, the Investment Company Act of 1940 (''Investment Company Act'').[2] As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants, in the past, had not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

In 2000, the Commission issued two rules that enabled Canadian/U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian/U.S. Participants and sales to their accounts.[3] Rule 237 under the Securities Act [4] permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act. Rule 7d–2 under the Investment Company Act [5] permits foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts without registering as investment companies under the Investment Company Act.

Rule 7d–2 requires written offering documents for securities offered or sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and may not be offered or sold in the United States unless registered or exempt from registration under the U.S. securities laws, and also to disclose prominently that the fund that issued the securities is not registered with the Commission. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The staff estimates that there are approximately 1,994 publicly offered Canadian funds that potentially would rely on the rule to offer securities to participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act. Most of these funds have already relied upon the rule and have made the one time change to their offering documents required to rely on the rule. The staff estimates that approximately 100 (5 percent) additional Canadian funds may newly rely on the rule each year to offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts, thus incurring the paperwork burden required under the rule. The staff estimates that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 300 offering documents. The staff therefore estimates that approximately 100 respondents would make 300 responses by adding the new disclosure statement to approximately 300 written offering documents. The staff therefore estimates that the annual burden associated with the rule 7d–2 disclosure requirement would be approximately 50 hours (300 offering documents × 10 minutes per document). The total annual cost of these burden hours is estimated to be $14,600.00 (50 hours × $292.00 per hour of attorney time).[6]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 31, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21738 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 204–2, SEC File No. 270–215, OMB Control No. 3235–0278.

[1] 15 U.S.C. 77.

[2] 15 U.S.C. 80a.

[3] See Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Account, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)].

[4] 17 CFR 230.237.

[5] 17 CFR 270.7d–2.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry Association. $292 per hour figure for an attorney is from the SIA Report on Management & Professional Earnings in the Securities Industry 2006, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The title for the collection of information is ''Rule 204–2'' (17 CFR 275.204–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1). Rule 204–2 sets forth the requirements for maintaining and preserving specified books and records. The collection of information under rule 204–2 is necessary for the Commission staff to use in its examination and oversight program. The respondents to the collection of information are investment advisers registered with us. The Commission staff estimates that the total reporting and recordkeeping burden of the collection of information for each respondent is approximately 181.1541 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c\o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21763 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 20840; 812–13376]

MyShares Trust, et al.; Notice of Application

October 31, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY: Applicants request an order that would permit: (a) Series of open-end management investment companies, to issue shares (''Shares'') that can be redeemed only in large aggregations (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated prices on a national securities exchange as defined in section 2(a)(26) of the Act (each an ''Exchange''); (c) dealers to sell Shares to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units.

Applicants: MyShares Trust (the ''Trust''); MyShares, LLC (the ''Advisor''); and Foreside Fund Services, LLC (the ''Distributor'').

Filing Dates: The application was filed on April 9, 2007, and amended on September 6, 2007 and October 31, 2007. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 26, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, MyShares Trust and MyShares, LLC, c/o MyShares, LLC, 210 Summit Avenue, Suite C11, Montvale, NJ 07645, and Foreside Fund Services, LLC, Two Portland Square, Portland, ME 04101.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel at (202) 551–6990, or Julia Kim Gilmer, Branch Chief, at (202) 551–6871 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–0102, telephone (202) 551–5850.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act and organized as a Delaware statutory trust. The Trust will initially offer four series (''Initial Funds'').[1] The Trust may offer additional investment companies in the future as well as additional series of any existing open-end investment company registered under the Act (''Future Funds'').[2]

2. The Advisor is registered as an ''investment adviser'' under the Investment Advisers Act of 1940, as amended (the ''Advisers Act'') and will serve as the investment adviser to each of the Initial Funds. The Advisor intends to enter into sub-advisory agreements with Northern Bank and Trust Company (''Initial Sub-Advisor''), to act as sub-advisor to the Initial Funds and may in the future enter into additional agreements with one or more sub-advisors with respect to Future Funds (all such sub-advisors collectively referred to as ''Sub-Advisor''). The Initial Sub-Advisor for

[1] The Initial Funds are: MyShares ISE Homebuilders Index Fund; MyShares ISE SINdex Fund; MyShares ISE–CCM Homeland Security Index Fund; and MyShares ISE–REVERE Wal-Mart Suppliers Index Fund.

[2] References to ''Fund(s)'' include the Initial Funds and the Future Funds. All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the application. Any Future Fund will be advised by the Advisor or an entity controlled by or under common control with the Advisor.

the Initial Funds is registered under the Advisers Act; any future Sub-Advisor to a Fund will be registered under the Advisers Act. The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act''), and will act as distributor and underwriter of the Creation Units of Shares. The Distributor is not affiliated with the Advisor or the Initial Sub-Advisor.

3. Each Fund will hold certain equity securities (''Portfolio Securities'') selected to correspond generally to the price and yield performance, before fees and expenses, of a specified equity securities index (an ''Underlying Index''). Certain of the Underlying Indices are composed of equity securities of domestic issuers and non-domestic issuers meeting the requirements for trading in U.S. markets (''Domestic Indices''). Other Underlying Indices may be composed of foreign equity securities (''Foreign Indices''). Funds which track Domestic Indices are referred to as ''Domestic Funds'' and Funds which track Foreign Indices are referred to as ''Foreign Funds.'' No entity that creates, compiles, sponsors or maintains an Underlying Index (''Index Provider'') is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust or a Fund, of the Advisor, of any Sub-Advisor to or promoter of a Fund, or of the Distributor.

4. The investment objective of each Fund will be to provide investment results that correspond generally to the price and yield performance, before fees and expenses, of its Underlying Index. Intra-day values of the Underlying Index will be disseminated every 15 seconds throughout the trading day. A Fund will utilize either a ''replication strategy'' or ''representative sampling'' which will be disclosed with regard to each Fund in its prospectus.[3] A Fund using a ''replication strategy'' generally will invest in all of the Component Securities in its Underlying Index in the same approximate proportions as in the Underlying Index. In certain circumstances, such as when there are practical difficulties or substantial costs involved in holding every security in an Underlying Index or when a Component Security is illiquid, a Fund may use a ''representative sampling'' strategy pursuant to which it will invest in some, but not all of the relevant Component Securities.[4] Applicants anticipate that a Fund that utilizing a ''representative sampling'' strategy will not track the price and yield performance of its Underlying Index with the same degree of accuracy as an investment vehicle that invests in every Component Security of the Underlying Index in the same weighting as the Underlying Index. Applicants expect that each Fund will have a tracking error relative to the performance of its Underlying Index of less than 5 percent.

5. Creation Units are expected to range between 15,000 to 200,000 Shares as will be clearly stated in the relevant Fund's prospectus (''Prospectus''). Applicants expect that the initial price of a Creation Unit will fall in the range of $1,000,000 to $10,000,000. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor (''Authorized Participant''). An Authorized Participant must be either: (a) A broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission; or (b) a participant in the Depository Trust Company (''DTC'', and such participant, ''DTC Participant''). Shares of each Fund generally will be sold in Creation Units in exchange for an in-kind deposit by the purchaser of a portfolio of securities designated by the Advisor or Sub-Advisor to correspond generally to the price and yield performance of the relevant Underlying Index (the ''Deposit Securities''), together with the deposit of a specified cash payment (''Balancing Amount'').[5] The Balancing Amount is an amount equal to the difference between (a) the net asset value (''NAV'') (per Creation Unit) of the Fund and (b) the total aggregate market value (per Creation Unit) of the Deposit Securities.[6] Each Fund reserves the right to permit, under certain circumstances, a purchaser of Creation Units to substitute cash in lieu of depositing some or all of the requisite Deposit Securities. An investor purchasing or redeeming a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from costs in connection with the purchase of Creation Units.[7] The maximum Transaction Fees relevant to each Fund will be fully disclosed in the Fund's Prospectus, and the method for calculating the Transaction Fees will be disclosed in each Fund's Prospectus or statement of additional information (''SAI''). Orders to purchase Creation Units will be placed with the Distributor who will be responsible for transmitting the orders to the Funds. The Distributor also will be responsible for delivering the Fund's Prospectus to those persons purchasing Creation Units, and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the Fund to implement the delivery of Shares.

6. Purchasers of Shares in Creation Units may hold such Shares or may sell such Shares into the secondary market. Shares will be listed and traded on an Exchange. If the American Stock Exchange LLC or the New York Stock Exchange LLC is the listing Exchange, it is expected that one or more member firms of such Exchange will be designated to act as a specialist and maintain a market on the Exchange for Shares trading on the Exchange (''Specialist''). If NYSE Arca, Inc. or NYSE Arca Marketplace, LLC (collectively, ''NYSE Arca'') is the listing Exchange, it is expected that one or more of the market makers that are

[3] Applicants represent that a Fund will normally invest at least 90% of its total assets in the component securities that comprise its Underlying Index (''Component Securities'') or, in the case of Foreign Funds, Component Securities and depositary receipts representing such securities. ''Depositary Receipts'' will typically be American Depositary Receipts, but may include Global Depositary Receipts and Euro Depositary Receipts. Each Fund also may invest up to 10% of its assets in certain futures, options and swap contracts, cash and cash equivalents, as well as in stocks not included in its Underlying Index, but which the Advisor or Sub-Advisor believes will help the Fund track its Underlying Index.

[4] Under the ''representative sampling'' strategy, the Advisor or Sub-Advisor will seek to construct a Fund's portfolio so that its investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures perform like those of the Underlying Index.

[5] The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to as a ''Portfolio Deposit.''

[6] Each Fund will sell and redeem Creation Units only on a ''Business Day'' which is defined as any day that the New York Stock Exchange, the Exchange, the Fund and the Custodian are open for business and includes any day that a Fund is required to be open under section 22(e) of the Act. In addition to the list of names and amount of each security constituting the current Deposit Securities, it is intended that, on each Business Day, the Balancing Amount effective as of the previous Business Day, per outstanding Share, will be made available. Any Exchange on which Shares are listed will disseminate, every 15 seconds, during its regular trading hours, through the facilities of the Consolidated Tape Association, an amount per Share representing the sum of the estimated Balancing Amount plus the current value of the Deposit Securities, on a per Share basis.

[7] Where a Fund permits a purchaser to substitute cash in lieu of depositing a portion of the requisite Deposit Securities, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Securities, including brokerage costs, and part or all of the spread between the expected bid and the offer side of the market relating to such Deposit Securities.

members of NYSE Arca (''Arca Market Makers'') will register to make a market in Shares listed on NYSE Arca. If The NASDAQ Stock Market, Inc. (''NASDAQ'') is the listing Exchange, one or more member firms of NASDAQ will act as a market maker (''NASDAQ Market Maker'') and maintain a market on NASDAQ for Shares trading on NASDAQ.[8] Prices of Shares trading on an Exchange will be based on the current bid/offer market. Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). A Specialist, or Market Makers, in providing a fair and orderly secondary market for the Shares, also may purchase Creation Units for use in its market-making activities. Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors.[9] Applicants expect that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Creation Units at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

8. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. Redemption orders must be placed by or through an Authorized Participant. An investor redeeming a Creation Unit generally will receive (a) Portfolio Securities designated to be delivered for Creation Unit redemptions (''Fund Securities'') on the date that the request for redemption is submitted, which may not be identical to the Deposit Securities required to purchase Creation Units on that date,[10] and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amount of the Cash Redemption Payment may differ from the Balancing Amount if the Fund Securities are not identical to the Deposit Securities on that day. An investor may receive the cash equivalent of a Fund Security in certain circumstances, such as if the investor is constrained from effecting transactions in the security by regulation or policy.

9. No Fund will be marketed or otherwise held out as a traditional open-end investment company or a mutual fund. Instead, each Fund will be marketed as an ''ETF,'' an ''investment company,'' a ''fund,'' or a ''trust.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on the Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund in Creation Units only. The same approach will be followed in the SAI, shareholder reports and investor educational materials issued or circulated in connection with the Shares. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to shareholders.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act; and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to register as an open-end management investment company and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal

[8] If Shares are listed on the NASDAQ, no particular NASDAQ Market Maker will be contractually obligated to make a market in Shares, although NASDAQ's listing requirements stipulate that at least two NASDAQ Market Makers must be registered in Shares to maintain the listing. Applicants state that registered Arca Market Makers and NASDAQ Market Makers (collectively, ''Market Makers'') are required to make a continuous, two-sided market at all times or be subject to regulatory sanctions.

[9] Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. DTC or DTC Participants will maintain records reflecting beneficial owners of Shares.

[10] As a general matter, the Deposit Securities and Fund Securities will correspond *pro rata* to the Portfolio Securities held by each Fund, but Fund Securities received on redemption may not always be identical to Deposit Securities deposited in connection with the purchase of Creation Units for the same day. The Funds will comply with the federal securities laws in accepting Deposit Securities and satisfying redemptions with Fund Securities, including that the Deposit Securities and Fund Securities are sold in transactions that would be exempt from registration under the Securities Act.

underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants seek relief from section 24(d) to permit dealers selling Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[11]

8. Applicants state that Shares are bought and sold in the secondary market in the same manner as closed-end fund shares. Applicants note that transactions in closed-end fund shares are not subject to section 24(d), and thus closed-end fund shares are sold in the secondary market without a prospectus. Applicants contend that Shares likewise merit a reduction in the unnecessary compliance costs and regulatory burdens resulting from the imposition of the prospectus delivery obligations in the secondary market. Because Shares will be listed on an Exchange, prospective investors will have access to information about the product over and above what is normally available about an open-end security. Applicants state that information regarding market price and volume will be continually available on a real time basis throughout the day on brokers' computer screens and other electronic services. The previous day's price and volume information will be published daily in the financial section of newspapers. In addition, a website will be maintained that will include each Fund's Prospectus and SAI, the relevant Underlying Index for each Fund, and additional quantitative information that is updated on a daily basis, including the mid-point of the bid-ask spread at the time of the calculation of NAV (''Bid/Ask Price''),[12] the NAV for each Fund, and information about the premiums and discounts at which the Fund Shares have traded.

9. Applicants will arrange for broker-dealers selling Shares in the secondary market to provide purchasers with a product description (''Product Description'') that describes, in plain English, the relevant Fund and the Shares it issues. Applicants state that a Product Description is not intended to substitute for a full Prospectus. Applicants state that the Product Description will be tailored to meet the information needs of investors purchasing Shares in the secondary market.

Section 17(a)(1) and (2) of the Act

10. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second-tier affiliate'') from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by the Advisor or an entity controlling, controlled by or under common control with the Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Advisor or an entity controlling, controlled by or under common control with the Advisor (an ''Affiliated Fund''). Applicants state that if Creation Units of all of the Funds or of one or more particular Funds are held by twenty or fewer investors, including a Specialist or Market Maker, some or all of such investors will be 5% owners of the Fund, and one or more investors may hold in excess of 25% of the Fund. Such investors would be deemed to be affiliated persons of the Fund.

11. Applicants request an exemption from section 17(a) of the Act pursuant to sections 17(b) and 6(c) of the Act to permit persons that are affiliated persons or second-tier affiliates of the Funds solely by virtue of: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the Shares of one or more Affiliated Funds, to effectuate in-kind purchases and redemptions.

12. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general provisions of the Act.

13. Applicants assert that no useful purpose would be served by prohibiting

[11] Applicants state that they are not seeking relief from the prospectus delivery requirement for non-secondary market transactions, such as transactions in which an investor purchases Shares from the Funds or an underwriter. Applicants further state that each Fund's Prospectus will caution broker-dealers and others that some activities on their part, depending on the circumstances, may result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it purchases Creation Units from a Fund, breaks them down into the constituent Shares, and sells those Shares directly to customers, or if it chooses to couple the creation of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. Each Fund's Prospectus will state that whether a person is an underwriter depends upon all of the facts and circumstances pertaining to that person's activities. Each Fund's Prospectus will caution dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, that they would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

[12] The Bid-Ask Price per Fund Share of a Fund is determined using the highest bid and the lowest offer on the Exchange on which the Fund Shares are listed.

these types of affiliated persons from purchasing or redeeming Creation Units through ''in-kind'' transactions. The deposit procedures for both in-kind purchases and in-kind redemptions of Creation Units will be the same for all purchases and redemptions. Deposit Securities and Fund Securities will be valued in the same manner as Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the affiliated persons of a Fund, or the affiliated persons of such affiliated persons, to effect a transaction detrimental to other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each Fund's Prospectus and Product Description will clearly disclose that, for purposes of the Act, Shares are issued by the Fund, which is a registered investment company, and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

2. As long as the Funds operate in reliance on the requested order, the Shares will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Each Fund's Prospectus will prominently disclose that Shares are not individually redeemable shares and will disclose that the owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable, and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

4. The website maintained for each Fund, which will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each Fund: (a) the prior Business Day's NAV and the Bid/Ask Price, and a calculation of the premium or discount of the Bid/Ask Price at the time of calculation of the NAV against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Fund will state that the website for the Fund has information about the premiums and discounts at which Shares have traded.

5. The Prospectus and annual report for each Fund also will include: (a) The information listed in condition 4(b), (i) in the case of the Fund's Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the Fund): (i) The cumulative total return and the average annual total return based on NAV and Bid/Ask Price, and (ii) the cumulative total return of the relevant Underlying Index.

6. Before a Fund may rely on the order, the Commission will have approved, pursuant to rule 19b-4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in Shares to deliver a Product Description to purchasers of Shares.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21739 Filed 11–5–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28039; 812–13416]

Rafferty Asset Management, et al.; Notice of Application

October 30, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: The order would permit certain management investment companies and unit investment trusts registered under the Act to acquire shares of certain open-end management investment companies registered under the Act, that are outside of the same group of investment companies as the acquiring investment companies.

APPLICANTS: Rafferty Asset Management, LLC (''Rafferty'' or ''Adviser''), Direxion Funds (''DF'') and Direxion Insurance Trust LLC (''DIT,'' together with DF, the ''Trusts'').

FILING DATES: The application was filed on August 10, 2007, and amended on October 26, 2007. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 26, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE,. Washington, DC 20549–1090; Applicants, 33 Whitehall Street, 10th Floor, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Janet M. Grossnickle, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. The Trusts are open-end management investment companies registered under the Act and are each comprised of separate series (''Funds'') that pursue distinct investment objectives and strategies. Shares of Funds of DF are sold publicly to retail investors, and shares of Funds of DIT are sold to insurance company separate accounts funding variable life and variable annuity contracts. The Adviser is registered as an investment adviser

under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to each Fund.[1]

2. Applicants request relief to permit registered management investment companies and their series (''Investing Companies'') and registered unit investment trusts and their series (''Investing Trusts,'' and together with the Investing Companies, ''Investing Funds'') that are outside of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Trusts, to acquire shares of the Funds in excess of the limits in section 12(d)(1)(A) of the Act, and to permit a Fund, any principal underwriter for a Fund, and any broker or dealer registered under the Securities Exchange Act of 1934 (''Broker'') to sell shares of each Fund to an Investing Fund in excess of the limits of section 12(d)(1)(B) of the Act. Applicants request that the relief apply to: (a) Other existing and future registered open-end management investment companies and series thereof (included in the term ''Funds'') advised by the Adviser and in the same group of investment companies, within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Trusts; (b) each Investing Fund that enters into a Participation Agreement (as defined below) with a Fund to purchase shares of the Fund; and (c) any principal underwriter to a Fund or Broker selling shares of a Fund.[2]

3. Each Investing Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act and registered as an investment adviser under the Advisers Act (''Investing Fund Adviser''). An Investing Fund Adviser may contract with an investment adviser which meets the definition of section 2(a)(20)(B) of the Act (a ''Subadviser''). Each Investing Trust will have a sponsor (''Sponsor'') and a trustee (''Trustee''). Applicants represent that to ensure that the Investing Funds comply with the terms and conditions of the requested relief from section 12(d)(1) of the Act, an Investing Fund must enter into a participation agreement between a Trust, on behalf of the relevant Funds, and the Investing Fund (''Participation Agreement'') before investing in a Fund beyond the limits imposed by section 12(d)(1)(A). The Participation Agreement will require the Investing Funds to adhere to the terms and conditions of the requested order. The Participation Agreement will include an acknowledgment from an Investing Fund that it may rely on the requested order only to invest in the Funds and not in any other registered investment company.

4. Applicants state that the Funds will offer the Investing Funds simple and efficient investment vehicles to achieve their asset allocation or diversification objectives. Applicants state that the Funds also provide high quality, professional investment program alternatives to Investing Funds that do not have sufficient assets to make comparable investments.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act to permit Investing Funds to acquire shares of the Funds in excess of the limits in section 12(d)(1)(A) of the Act, and a Fund, any principal underwriter for a Fund and any Broker to sell shares of a Fund to an Investing Fund in excess of the limits of section 12(d)(1)(B) of the Act.

3. Applicants state that the proposed arrangement and conditions will adequately address the policy concerns underlying sections 12(d)(1)(A) and (B) of the Act, which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that neither the Investing Fund nor an Investing Fund Affiliate would be able to exert undue influence over the Funds.[3] To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the Investing Fund Adviser, Sponsor, and any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser or Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor (''Investing Fund Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to each Subadviser, any person controlling, controlled by or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by or under common control with the Subadviser (''Subadviser Group''). Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer,

[1] The term ''Adviser'' includes all entities controlling, controlled by or under common control with Rafferty and its successors in interest. A successor in interest is an entity resulting from a reorganization of Rafferty into another jurisdiction or a change in the type of business organization.

[2] All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. An Investing Fund may rely on the requested order only to invest in the Funds and not in any other registered investment company.

[3] ''Investing Fund Affiliates'' are the Investing Fund Adviser, Subadviser, Sponsor, promoter, and principal underwriter of the Investing Fund, and any person controlling, controlled by, or under common control with any of these entities. ''Fund Affiliates'' are the investment adviser(s), promoter, and principal underwriter of the Fund, and any person controlling, controlled by, or under common control with any of these entities.

director, member of an advisory board, Investing Fund Adviser, Subadviser, Sponsor, or employee of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Adviser, Subadviser, Sponsor or employee is an affiliated person; however any person whose relationship to a Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate.

5. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of each Investing Company, including a majority of the directors or trustees who are not ''interested persons'' (within the meaning of section 2(a)(19) of the Act) (''Disinterested Trustees''), will find that the advisory fees charged under the advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Company may invest. In addition, an Investing Fund Adviser, Sponsor, or Trustee, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, Sponsor or Trustee or an affiliated person thereof, other than any advisory fees paid to the Investing Fund Adviser, Sponsor or Trustee, or an affiliated person thereof by a Fund in connection with the investment by the Investing Fund in the Fund. Applicants also state that with respect to registered separate accounts that invest in any Investing Fund, no sales load will be charged at the Investing Fund level or at the Fund level. Other sales charges and service fees, as defined in Rule 2830 of the Conduct Rules of the National Association of Securities Dealers, Inc., (''Rule 2830''), if any, will only be charged at the Investing Fund level or at the Fund level, not both.[4] With respect to other investments in any Investing Fund, any sales charges and/or service fees charged with respect to shares of the Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Rule 2830.

6. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants propose condition 12 to ensure that the proposed structure will not result in unnecessary complexity. Further, the Participation Agreement will require each Investing Fund that exceeds the 5% or 10% limitation in section 12(d)(1)(A)(ii) and (iii) of the Act to disclose in its prospectus that it may invest in registered investment companies, and to disclose, in ''plain English,'' in its prospectus the unique characteristics of the Investing Fund investing in registered investment companies, including but not limited to the expense structure and any additional expenses of investing in registered investment companies. Each Investing Fund also will comply with the disclosure requirements set forth in Investment Company Act Release No. 27399 (June 20, 2006).

7. Applicants also note that a Fund may choose to reject any investment by an Investing Fund. The prospectus of each Fund discloses that the Fund may choose to reject a purchase order at the discretion of the Fund.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person. Applicants seek relief from section 17(a) to permit a Fund that is an affiliated person of an Investing Fund because the Investing Fund holds 5% or more of the Fund's shares to sell its shares to and redeem its shares from an Investing Fund.[5]

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, (b) the proposed transaction is consistent with the policies of each registered investment company involved, and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the proposed arrangement satisfies the standards for relief under sections 17(b) and 6(c) of the Act.

3. Applicants believe that any proposed transactions directly between Funds and the Investing Funds will be consistent with the policies of each Fund and Investing Fund. The Participation Agreement will require any Investing Fund that purchases shares from a Fund to represent that the purchase of shares from the Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement.

4. Applicants also state that the terms of the arrangement are fair and reasonable and do not involve overreaching. Applicants note that all shares of the Funds sold and redeemed by the Funds will be sold and redeemed at net asset value as required by rule 22c–1 under the Act, without regard to the identity of the purchasing or redeeming investor. Applicants state that the proposed arrangement will be consistent with the policies of each Investing Fund and Fund and with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The members of the Investing Fund Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Subadviser Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund Advisory Group or the Subadviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of a Fund, it (except for any member of the Investing Fund Advisory Group or Subadviser Group that is a separate account) will vote its shares of

[4] Applicants represent that each Investing Fund will represent in the Participation Agreement that no insurance company sponsoring a registered separate account funding variable insurance contracts will be permitted to invest in the Investing Fund unless the insurance company has certified to the Investing Fund that the aggregate of all fees and charges associated with each contract that invests in the Investing Fund, including fees and charges at the separate account, Investing Fund, and Fund levels, will be reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company.

[5] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its shares to an Investing Fund is subject to section 17(e) of the Act. The Participation Agreement also will include this acknowledgment.

the Fund in the same proportion as the vote of all other holders of the Fund's shares. This condition does not apply to the Subadviser Group with respect to a Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act. A registered separate account will seek voting instructions from its contract holders and will vote its shares in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An unregistered separate account will either (a) vote its shares of the Fund in the same proportion as the vote of all other holders of the Fund's shares, or (b) seek voting instructions from its contract holders and vote its shares in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in shares of a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Company, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to assure that the Investing Fund Adviser and any Subadviser are conducting the investment program of the Investing Company without taking into account any consideration received by the Investing Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of trustees of the Fund (''Board''), including a majority of the Disinterested Trustees, will determine that any consideration paid by the Fund to an Investing Fund or an Investing Fund Affiliate in connection with any services or transactions (a) is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund, (b) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions, and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

6. The Board of a Fund, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting once an investment by an Investing Fund in the securities of the Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board of the Fund will consider, among other things, (a) whether the purchases were consistent with the investment objectives and policies of the Fund, (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index, and (c) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Fund will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. The Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the Board of the Fund were made.

8. Before investing in a Fund in excess of the limits in section 12(d)(1)(A) of the Act, the Investing Fund and the Fund will execute a Participation Agreement stating without limitation that their boards of directors or trustees and their investment advisers, or the Sponsor and Trustee, as applicable, understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the Participation Agreement and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Company, including a majority of the Disinterested Trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Company.

10. An Investing Fund Adviser, Sponsor or Trustee, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees from any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, Sponsor or Trustee, or an affiliated person thereof, other than any advisory fees paid to the Investing Fund Adviser, Sponsor or Trustee, or an affiliated person thereof, by a Fund in

connection with the investment by the Investing Fund in the Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Investing Company in an amount at least equal to any compensation received from a Fund by the Subadviser, or an affiliated person thereof, other than any advisory fees paid to the Subadviser or its affiliated person by a Fund, in connection with the investment by the Investing Company in the Fund made at the direction of the Subadviser. In the event that the Subadviser waives fees, the benefit of the waiver will be passed through to the Investing Company.

11. With respect to registered separate accounts that invest in any Investing Fund, no sales load will be charged at the Investing Fund level or at the Fund level. Other sales charges and service fees, as defined in Rule 2830, if any, will only be charged at the Investing Fund level or at the Fund level, not both. With respect to other investments in an Investing Fund, any sales charges and/or service fees charged with respect to shares of the Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Rule 2830.

12. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(E) of the Act or exemptive relief from the Commission permitting the Fund to purchase shares of an affiliated money market fund for short-term cash management purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21694 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Federal Register Citation of Previous Announcement: November 5, 2007

Status: Closed meeting.

Place: 100 F Street, NE., Washington, DC.

Date and Time of previously Announced meeting: November 8, 2007 at 2 p.m.

Change in the Meetings: Date and Time Change.

The Closed Meeting scheduled for Thursday, November 8, 2007 at 2 p.m., has been changed to Wednesday, November 7, 2007 at 2:30 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

November 1, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21772 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56722; File No. SR–NASDAQ–2007–085]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Amending Nasdaq's Membership Application Rules

October 31, 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 October 30, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies Nasdaq's membership application procedures. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

1010. Membership Proceedings

1011. Definitions

Unless otherwise provided, terms used in the Rule 1000 Series shall have the meaning as defined in Rule 0120.

(a)–(f) No change.

(g) ''material change in business operations''.

The term ''material change in business operations'' includes, but is not limited to:

(1) removing or modifying a membership agreement restriction;

(2) market making, underwriting, or acting as a dealer for the first time; [and]

(3) adding business activities that require a higher minimum net capital under SEC Rule 15c3–1; and

(4) adding business activities that would cause a proprietary trading firm no longer to meet the definition of that term contained in this rule.

(h)–(n) No change.

(o) ''Proprietary Trading Firm''

The term ''proprietary trading firm'' means an Applicant with the following characteristics:

(1) the Applicant is not required by Section 15(b)(8) of the Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act;

(2) all funds used or proposed to be used by the Applicant for trading are the Applicant's own capital, traded through the Applicant's own accounts;

(3) the Applicant does not, and will not have ''customers,'' as that term is defined in Nasdaq Rule 0120(g); and

(4) all Principals and Representatives of the Applicant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Applicant.

1012. General Provisions

(a) No change.

(b) Lapse of Application

(1) Absent a showing of good cause, an application filed under Rule 1013 or 1017 shall lapse if an Applicant fails to:

(A) respond fully within [60] *15 business* days after service of an initial written request for information or documents under Rule 1013, [within 30 days after service of] an initial written request for information or documents under Rule 1017, [within 30 days after service of] *or* a subsequent written request for information or documents under Rule 1013 or 1017, or within such other time period agreed to by the Department and the Applicant;

(B) appear at or otherwise participate in a scheduled membership interview pursuant to Rule 1013(b) or 1017(f), *if required*; or

[(C)] file an executed membership agreement under Rule 1014(d) or [Rule] 1017(g)(4) within 25 days after service of the agreement, or within such other period agreed to by the Department and the Applicant.

(2) If an Applicant wishes to continue to seek membership or approval of a

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

change in ownership, control, or business operations, then the Applicant shall be required to submit a new application under Rule 1013 or 1017, respectively, and any required fee. Nasdaq shall not refund any fee for a lapsed application.

(c)–(d) No change.

(e) Computation of Time

(1) Calendar Day

In the Rule 1010 Series, ''day'' means calendar day, *unless otherwise specified.*

(2) Formula

In computing a period of time under the Rule 1010 Series, the day of the act, event, default, or lapse from which the period of time designated begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and Federal holidays shall be excluded from the computation when the period prescribed is ten days *or less or when the term ''business day'' is used.*

(f)–(j) No change.

1013. New Member Application [and Interview]

(a) Filing of Application

(1) Where to File*; Contents*

An Applicant for Nasdaq membership shall file its application with the Department in accordance with this Rule. *An Applicant shall submit an application that includes:*

[(2) Contents]

[The application shall include:]

(A) a copy of the Applicant's current Form BD;

(B) an original Nasdaq-approved fingerprint card for each Associated Person who will be subject to SEC Rule 17f–2 and for whom a fingerprint card has not been filed with another self-regulatory organization;

[(C) Reserved]

[(D)] *(C)* a check for such fee as may be required under the Nasdaq Rules;

[(E)] *(D) a description of the Applicant's proposed trading activities on Nasdaq, such as the types of securities it will trade, whether it will be a market maker, an order entry firm, and/or engage in block trading activities, and the extent to which the Applicant is conducting such activities as a member of other SRO(s);* [business information that describes the Applicant's operations and that includes:]

[(i)] *(E)* [a trial balance and computation of net capital, each of which has been prepared as of a date that is within 30 days before the filing date of the application]*a copy of the Applicant's most recent audited financial statements and a description of any material changes in the Applicant's financial condition since the date of the financial statements*;

[(ii) Reserved]

[(iii)] *(F)* an organizational chart;

[(iv)] *(G)* the intended location of the Applicant's principal place of business and all other offices, if any, whether or not such offices would be required to be registered under the Nasdaq Rules, and the names of the persons who will be in charge of each office;

[(v) a list of the types of securities to be offered and sold and the types of retail or institutional customers to be solicited;]

[(vi) Reserved]

[(vii) Reserved]

[(viii) the number of markets to be made, if any, the type and volatility of the products, and the anticipated maximum inventory positions;]

[(ix) Reserved]

[(x) any plan to distribute or maintain securities products in proprietary positions, and the risks, volatility, degree of liquidity, and speculative nature of the products; and]

[(xi) Reserved]

[(xii)] *(H)* a description of the communications and operational systems the Applicant will employ to conduct business [with customers or other members] and the plans and procedures the Applicant will employ to ensure business continuity, including: system capacity to handle the anticipated level of usage; contingency plans in the event of systems or other technological or communications problems or failures [that may impede customer usage or firm order entry or execution]; system redundancies; disaster recovery plans; *and* system security; [disclosures to be made to potential and existing customers who may use such systems; and supervisory or customer protection measures that may apply to customer use of, or access to, such systems;]

[(F)] *(I)* a copy of any decision or order by a federal or state authority or self-regulatory organization taking permanent or temporary adverse action with respect to a registration or licensing determination regarding the Applicant or an Associated Person;

[(G) Reserved]

[(H)] *(J) a statement indicating whether the Applicant is currently, or has been in the last ten years, the subject of any investigation or disciplinary proceeding conducted by any self-regulatory organization, the foreign equivalent of a self-regulatory organization, a foreign or international securities exchange, a contract market designated pursuant to the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, a futures association registered under the Commodity Exchange Act or any substantially similar foreign statute or regulation, the Commission or any other ''appropriate regulatory agency'' (as defined in the Act), the Commodity Futures Trading Commission, or any state financial regulatory agency regarding the Applicant's activities that* [documentation of any of the following events, unless the event] has *not* been reported to the Central Registration Depository*, together with all relevant details, including any sanctions imposed;*[:]

(K) a statement indicating whether any person listed on Schedule A of the Applicant's Form BD is currently, or has been in the last ten years, the subject of any investigation or disciplinary proceeding conducted by any self-regulatory organization, the foreign equivalent of a self-regulatory organization, a foreign or international securities exchange, a contract market designated pursuant to the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, a futures association registered under the Commodity Exchange Act or any substantially similar foreign statute or regulation, the Commission or any other ''appropriate regulatory agency'', the Commodity Futures Trading Commission, or any state financial regulatory agency regarding the Applicant's activities that has not been reported to the Central Registration Depository, together with all relevant details, including any sanctions imposed;

[(i) a regulatory action against or investigation of the Applicant or an Associated Person by the Commission, the Commodity Futures Trading Commission, a federal, state, or foreign regulatory agency, or a self-regulatory organization that is pending, adjudicated, or settled;]

[(ii) an investment-related civil action for damages or an injunction against the Applicant or an Associated Person that is pending, adjudicated, or settled;]

[(iii) an investment-related customer complaint or arbitration that is required to be reported on Form U4;]

[(iv) a criminal action (other than a minor traffic violation) against the Applicant or an Associated Person that

is pending, adjudicated, or that has resulted in a guilty or no contest plea; and]

[(v) a copy of any document evidencing a termination for cause or a permitted resignation after investigation of an alleged violation of a federal or state securities law, a rule or regulation thereunder, a self-regulatory organization rule, or an industry standard of conduct;]

[(I) a description of any remedial action, such as special training, continuing education requirements, or heightened supervision, imposed on an Associated Person by a state or federal authority or self-regulatory organization;]

[(J) a written acknowledgment that heightened supervisory procedures and special educational programs may be required pursuant to NASD Notice to Members 97–19 (as incorporated by reference into Nasdaq IM–3010) for an Associated Person whose record reflects disciplinary actions or sales practice events;]

[(K)] *(L)* a copy of [final or proposed contracts with banks, clearing entities, or service bureaus, and a general description of any other final or proposed contracts]*any contract or agreement with another broker-dealer, a bank, a clearing entity, a service bureau or a similar entity to provide the Applicant with services regarding the execution or clearance and settlement of transactions effected on Nasdaq*;

[(L)] *(M) if the Applicant proposes to make markets on Nasdaq, a description of the source and amount of Applicant's capital to support its market making activities on Nasdaq, and the source of any additional capital that may become necessary* [a description of the nature and source of Applicant's capital with supporting documentation, the risk to net capital presented by the Applicant's proposed business activities, and any arrangement for additional capital should a business need arise];

[(M)] *(N)* a description of the financial controls to be employed by the Applicant *with respect to Nasdaq Rule 3011;*

[(N) a description of the Applicant's supervisory system and a copy of its written supervisory procedures] *(O) a copy of the Applicant's written supervisory procedures with respect to the activities identified in paragraph (a)(1)(D);*

[(O) a description of the number, experience, and qualifications of supervisors and principals and the number, experience, and qualifications of persons to be supervised by such personnel] *(P) a list of the persons conducting the Applicant's market making and other trading activities, and a list of the persons responsible for such persons' supervision, together with the CRD number (if applicable) or a copy of Form U–4 for each such person;*

[(P) Reserved]

[(Q) Reserved]

[(R)] *(Q) if not previously provided to FINRA,* a[n NASD] *FINRA* Entitlement Program Agreement and Terms of Use and an Account Administration Entitlement Form;

[(S)] *(R)* a copy of the Applicant's most recent ''FOCUS Report'' (Form X–17A–5) filed with the SEC pursuant to SEC Rule 17a–5 (the most current Parts I, II, and III, as applicable);

(S) all examination reports and corresponding responses regarding the Applicant for the previous two years from the self-regulatory organizations of which it is a member;

(T) an agreement to comply with the federal securities laws, the rules and regulations thereunder, the Nasdaq Rules, and all rulings, orders, directions, and decisions issued and sanctions imposed under the Nasdaq Rules;

(U) an agreement to pay such dues, assessments, and other charges in the manner and amount as from time to time shall be fixed pursuant to the Nasdaq Rules; and

(V) such other reasonable information with respect to the applicant as Nasdaq may require.

Each Applicant and Nasdaq member shall ensure that its membership application with Nasdaq is kept current at all times by supplementary amendments via electronic process or such other process as Nasdaq may prescribe. Such amendments to the application shall be filed with Nasdaq not later than [30]*15 business* days after the applicant or Nasdaq member learns of the facts or circumstances giving rise to the *need for the* amendment. *The Applicant shall promptly notify the Department in writing of any material adverse change in its financial condition.*

[(3)] (*2*) [Electronic Filings] *Uniform Registration Forms*

Upon approval of the Applicant's Account Administrator Entitlement Form, the Applicant shall submit its Forms U4 for each Associated Person who is required to be registered under the Rules, any amendments to its Forms BD or U4, and any Form U5 electronically via Web CRD.

[(4)] (*3*) Rejection of Application That Is Not Substantially Complete

If the Department determines within [30]*15 business* days after the filing of an application that the application is not substantially complete, the Department may reject the application and deem it not to have been filed. In such case, within the [30]*15* day period, the Department shall serve a written notice on the Applicant of the Department's determination and the reasons therefor. Nasdaq shall refund the application fees, if any, in accordance with the provisions of the Nasdaq Rules governing such fees. If the Applicant determines to continue to seek membership, the Applicant shall submit a new application and any required fee under this Rule.

[(5)] (*4*) [Request For] Additional Documents Or Information

Within [30] *15 business* days after the filing of an application, the Department shall serve an initial request for any additional information or documents necessary to render a decision on the application. The Department may serve subsequent requests for additional information or documents at any time during the membership application process.

Unless otherwise agreed by the Department and the Applicant, the Applicant shall file any additional information and documents with the Department within [60] *15 business* days after service of the Department's [initial] request [and 30 days after service of any subsequent request].

[(6)] (*5*) Applicants That Are Members of an Association or Another Exchange

(A) Applicants for Nasdaq membership that are also simultaneously applying for [NASD] *FINRA* membership may file one application with [the NASD]*FINRA* in compliance with the NASD Rule 1010 Series; however, Nasdaq will not take action on the application for Nasdaq membership until the applicant is an active member of [the NASD]*FINRA*.

(B) Applicants that are members of another registered national securities exchange or association must submit a complete application form containing all of the required items of information listed in Rule 1013(a)[(2)](*1*).

(C) An applicant that is an approved [NASD]*FINRA* member shall have the option to apply to become a Nasdaq member and to register with Nasdaq all associated persons of the firm whose registrations with the firm are approved with *FINRA*[the NASD] in categories recognized by Nasdaq rules through an expedited process by submitting a Waive-in Membership Application Form and a Nasdaq Membership Agreement.

(b) Membership Interview

(1) *Optional* [Requirement for] Interview

Before the Department serves its decision on an application for new

membership in Nasdaq, the Department [shall]*may* conduct a membership interview with a representative or representatives of the Applicant *if the Department determines that an interview is necessary to clarify aspects of an application.*

(2) Service of Notice

At least seven days before [the] *a* membership interview, the Department shall serve on the Applicant a written notice that specifies the date and time of the interview and the representative or representatives of the Applicant who are required to participate in the interview. The Department shall serve the notice by facsimile or overnight courier. The Applicant and the Department may agree to a shorter or longer period for notice or a different method of service under this subparagraph.

(3) Time

Unless the Department directs otherwise for good cause shown, *any* membership interview shall be scheduled to occur within [90]*60* days after the filing of an application or within [60]*15 business* days after the filing of all additional information or documents requested, whichever is later.

(4) Place

The membership interview shall be conducted in a location specified by Nasdaq.

[(5) Updated Financial Documents]

[On or before the date of the membership interview, an Applicant shall file an updated trial balance and computation of net capital. The Applicant shall prepare such documents as of a date that is within 45 days before the date of the membership interview, unless the Applicant and the Department agree on a longer period. The Applicant shall promptly notify the Department in writing of any material adverse change in its financial condition that occurs before a decision constituting final action of Nasdaq is served on the Applicant.]

[(6)] (*5*) Review of Standards for Admission

During [the] *any* membership interview, the Department shall review the application and the *bases for denial of* [standards for admission to] membership with the Applicant's representative or representatives.

[(7)] (*6*) Information From Other Sources

During [the]*any* membership interview, the Department shall provide to the Applicant's representative or representatives any information or document that the Department has obtained from the Central Registration Depository or a source other than the Applicant and upon which the Department intends to base its decision under Rule 1014. If the Department *does not conduct a membership interview,* receives such information or document after the membership interview, or decides to base its decision on such information after the membership interview, the Department shall promptly serve the information or document and an explanation thereof on the Applicant. *The Applicant may submit such materials as it may deem relevant with respect to such information or document at any time prior to the service of a decision under Rule 1014.*

1014. Department Decision

(a) [Standards for Admission] *Bases for Denial of Membership*

After considering the *completed* application, [the membership interview,] other information and documents provided by the Applicant, other information and documents obtained by the Department, and the public interest and the protection of investors, *the Department shall approve the application unless the Department determines that such information or documents provide a basis for denial of membership:*

(*1*) [t]*T*he Department [shall determine whether the Applicant meets each of the following standards:]*may deny (or condition) approval of an Applicant for the same reasons that the Securities and Exchange Commission may deny or revoke a broker or dealer registration and for those reasons required or allowed under the Act;*

(2) Without limiting the generality of the foregoing, the Department may deny (or condition) approval of an Applicant when the Applicant directly or indirectly:

(A) is unable to satisfactorily demonstrate its present capacity to adhere to all applicable Nasdaq and Commission policies, rules, and regulations, including, without limitation, those concerning record-keeping, reporting, finance, and trading procedures;

(B) has previously violated, and there is a reasonable likelihood such Applicant will again engage in acts or practices violative of, any applicable Nasdaq or Commission policies, rules and regulations, including, without limitation, those concerning record-keeping, reporting, finance and trading procedures or those rules of other self-regulatory organizations of which such Applicant is or was a member;

(C) has engaged, and there is a reasonable likelihood such Applicant will again engage, in acts or practices inconsistent with just and equitable principles of trade;

(D) is not in compliance with the SEC's net capital rule (17 CFR. 240.15c3–1), or has financial difficulties involving an amount that is more than 5% of the Applicant's net worth;

(E) has been itself, or is the successor to an entity which has been subject to any bankruptcy proceeding, receivership or arrangement for the benefit of creditors within the past three years;

(F) has engaged in an established pattern of failure to pay just debts;

(G) does not have such licenses and registrations as are required by governmental authorities and self-regulatory organizations; or

(H) is unable satisfactorily to demonstrate reasonably adequate systems capacity and capability.

[(1) The application and all supporting documents are complete and accurate.]

[(2) The Applicant and its Associated Persons have all licenses and registrations required by state and federal authorities and self-regulatory organizations.]

[(3) The Applicant and its Associated Persons are capable of complying with the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules, including observing high standards of commercial honor and just and equitable principles of trade. In determining whether this standard is met, the Department shall take into consideration whether:]

[(A) a state or federal authority or self-regulatory organization has taken permanent or temporary adverse action with respect to a registration or licensing determination regarding the Applicant or an Associated Person;]

[(B) an Applicant's or Associated Person's record reflects a sales practice event, a pending arbitration, or a pending private civil action;]

[(C) an Applicant or Associated Person is the subject of a pending, adjudicated, or settled regulatory action or investigation by the Commission, the Commodity Futures Trading Commission, a federal, state, or foreign regulatory agency, or a self-regulatory organization; an adjudicated, or settled investment-related private civil action for damages or an injunction; or a criminal action (other than a minor traffic violation) that is pending, adjudicated, or that has resulted in a guilty or no contest plea; or an

Applicant, its control persons, principals, registered representatives, other Associated Persons, any lender of 5% or more of the Applicant's net capital, or any other member with respect to which any of these persons is or was a control person or a 5% lender of its net capital is subject to unpaid arbitration awards, other adjudicated customer awards, or unpaid arbitration settlements;]

[(D) an Associated Person was terminated for cause or permitted to resign after an investigation of an alleged violation of a federal or state securities law, a rule or regulation thereunder, a self-regulatory organization rule, or industry standard of conduct;]

[(E) a state or federal authority or self-regulatory organization has imposed a remedial action, such as special training, continuing education requirements, or heightened supervision, on an Associated Person; and]

[(F) a state or federal authority or self-regulatory organization has provided information indicating that the Applicant or an Associated Person otherwise poses a threat to public investors.]

[(4) The Applicant has established all contractual or other arrangements and business relationships with banks, clearing corporations, service bureaus, or others necessary to:]

[(A) initiate the operations described in the Applicant's application, considering the nature and scope of operations and the number of personnel; and]

[(B) comply with the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(5) The Applicant has or has adequate plans to obtain facilities that are sufficient to:]

[(A) initiate the operations described in the Applicant's application, considering the nature and scope of operations and the number of personnel; and]

[(B) comply with the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(6) The communications and operational systems that the Applicant intends to employ for the purpose of conducting business with customers and other members are adequate and provide reasonably for business continuity in each area set forth in Rule 1013(a)(2)(E)(xii);]

[(7) The Applicant is capable of maintaining a level of net capital in excess of the minimum net capital requirements set forth in SEC Rule 15c3–1 adequate to support the Applicant's intended business operations on a continuing basis, based on information filed under Rule 1013. The Department may impose a reasonably determined higher net capital requirement for the initiation of operations after considering:]

[(A) the amount of net capital sufficient to avoid early warning level reporting requirements, such as SEC Rule 17a–11;]

[(B) the amount of capital necessary to meet expenses net of revenues for at least twelve months, based on reliable projections agreed to by the Applicant and the Department;]

[(C) any planned market making activities, the number of markets to be made, the type and volatility of products, and the anticipated maximum inventory positions;]

[(D) any plan to enter into other contractual commitments, such as underwritings or other securities-related activities;]

[(E) any plan to distribute or maintain securities products in proprietary positions, and the risks, volatility, degree of liquidity, and speculative nature of the products; and]

[(F) any other activity that the Applicant will engage in that reasonably could have a material impact on net capital within the first twelve months of business operations.]

[(8) The Applicant has financial controls to ensure compliance with the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(9) The Applicant has compliance, supervisory, operational, and internal control practices and standards that are consistent with practices and standards regularly employed in the investment banking or securities business, taking into account the nature and scope of Applicant's proposed business.]

[(10) The Applicant has a supervisory system, including written supervisory procedures, internal operating procedures (including operational and internal controls), and compliance procedures designed to prevent and detect, to the extent practicable, violations of the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules. In evaluating the adequacy of a supervisory system, the Department shall consider the overall nature and scope of the Applicant's intended business operations and shall consider whether:]

[(A) the number, location, experience, and qualifications of supervisory personnel are adequate in light of the number, location, experience, and qualifications of persons to be supervised; the Central Registration Depository record or other disciplinary history of supervisory personnel and persons to be supervised; and the number and locations of the offices that the Applicant intends to open and the nature and scope of business to be conducted at each office;]

[(B) the Applicant has identified specific Associated Persons to supervise and discharge each of the functions in the Applicant's business plan, and to supervise each of the Applicant's intended offices, whether or not such offices are required to be registered under the Nasdaq Rules;]

[(C) the Applicant has identified the functions to be performed by each Associated Person and has adopted procedures to assure the registration with Nasdaq and applicable states of all persons whose functions are subject to such registration requirements;]

[(D) each Associated Person identified in the business plan to discharge a supervisory function has at least one year of direct experience or two years of related experience in the subject area to be supervised;]

[(E) the Applicant will solicit retail or institutional business;]

[(F) the Applicant will recommend securities to customers;]

[(G) the location or part-time status of a supervisor or principal will affect such person's ability to be an effective supervisor;]

[(H) the Applicant should be required to place one or more Associated Persons under heightened supervision pursuant to NASD Notice to Members 97–19 (as incorporated by reference into Nasdaq IM–3010);]

[(I) any remedial action, such as special training or continuing education requirements or heightened supervision, has been imposed on an Associated Person by a state or federal authority or self-regulatory organization; and]

[(J) any other condition that will have a material impact on the Applicant's ability to detect and prevent violations of the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(11) The Applicant has a recordkeeping system that enables Applicant to comply with federal, state, and self-regulatory organization recordkeeping requirements and a staff that is sufficient in qualifications and number to prepare and preserve required records.]

[(12) The Applicant has completed a training needs assessment and has a written training plan that complies with the continuing education requirements imposed by the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(13) Nasdaq does not possess any information indicating that the Applicant may circumvent, evade, or otherwise avoid compliance with the federal securities laws, the rules and regulations thereunder, or the Nasdaq Rules.]

[(14) The application and all supporting documents otherwise are consistent with the federal securities laws, the rules and regulations thereunder, and the Nasdaq Rules.]

[(15)] *(3) The Department will not approve an Applicant unless* [T]the Applicant is a member of another registered securities exchange or association that is not registered solely under Section 6(g) or Section 15A(k) of the Securities Exchange Act of 1934. An Applicant that will transact business with the public must be a member of [the NASD]*FINRA*.

(b) Granting or Denying Application

(1) [In reviewing an application for membership, the Department shall consider whether the Applicant and its Associated Persons meet each of the standards in paragraph (a). Where the Department determines that the Applicant or its Associated Persons are the subject of any of the events set forth in Rule 1014(a)(3)(A) and (C) through (E), a presumption exists that the application should be denied. The Applicant may overcome the presumption by demonstrating that it can meet each of the standards in paragraph (a), notwithstanding the existence of any of the events set forth in Rule 1014(a)(3)(A) and (C) through (E).]

[(2) If the Department determines that the Applicant meets each of the standards in paragraph (a), the Department shall grant the application for membership.]

[(3)] *Unless* [If] the Department determines that *there is a basis for denying (or conditioning) approval of* the [Applicant] *application under* [does not meet one or more of] the [standards] *bases for denial* in paragraph (a) [in whole or in part], the Department shall *approve the application for membership. If the Department does not approve the application, the Department shall*:

(A) grant the application subject to one or more restrictions reasonably designed to address a specific financial, operational, supervisory, disciplinary, investor protection, or other regulatory concern [based on the standards for admission in Rule 1014(a)]; or

(B) deny the application.

(c) Decision

(1) Time

The Department shall serve a written decision on the membership application within [30] *15 business* days after the conclusion of the membership interview (*if any*) or after the filing of [additional] *all required* information or documents, whichever is later.

(2) Content

If the Department denies the application *or grants the application subject to restrictions,* the decision shall explain in detail the reason for denial *or restriction,* referencing the applicable [standard or standards]*bases* in paragraph (a). [If the Department grants the application subject to restrictions, the decision shall explain in detail the reason for each restriction, referencing the applicable standard or standards in paragraph (a) upon which the restriction is based and identify the specific financial, operational, supervisory, disciplinary, investor protection, or other regulatory concern that the restriction is designed to address and the manner in which the restriction is reasonably designed to address the concern.]

(3) Failure to Serve Decision

If the Department fails to serve a decision within [180] *90* days after the filing of an application *(or 120 days if the Department has opted to conduct a membership interview)* or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the Nasdaq Board requesting that the Nasdaq Board direct the Department to serve a decision. Within seven days after the filing of such a request, the Nasdaq Board shall direct the Department to serve its written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the Nasdaq Board may extend the [180] *90*-day *(or 120-day)* time limit by not more than [90] *45* days.

(d)–(g) No change.

1015. Review by Nasdaq Review Council

(a) Initiation of Review by Applicant

Within 25 days after service of a decision under Rule 1014 or 1017, an Applicant may file a written request for review with the Nasdaq Review Council. A request for review shall state with specificity why the Applicant believes that the Department's decision is inconsistent with the [membership standards]*bases for denial* set forth in Rule 1014, or otherwise should be set aside, and state whether a hearing is requested. The Applicant simultaneously shall file by first-class mail a copy of the request with the Department.

(b)–(i) No change.

(j) Decision

(1) No change.

(2) Contents

The decision shall include:

(A) a description of the Department's decision, including its rationale;

(B) a description of the principal issues raised in the review;

(C) a summary of the evidence on each issue; and

(D) a statement whether the Department's decision is affirmed, modified, or reversed, and a rationale therefor that references the [applicable standards] *bases for denial* in Rule 1014.

(3)–(4) No change.

* * * * *

1017. Application for Approval of Change in Ownership, Control, or Business Operations

(a) No change.

(b) Filing and Content of Application

(1) No change.

(2) The application shall describe in detail the change in ownership, control, or business operations and include a business plan, pro forma financials, an organizational chart, and written supervisory procedures reflecting the change.

(A) No change.

(B) If the application requests the removal or modification of a membership agreement restriction, the application also shall:

(i) present facts showing that the circumstances that gave rise to the restriction have changed; and

(ii) state with specificity why the restriction should be modified or removed in light of [the standards set forth in Rule 1014 and] the articulated rationale for the imposition of the restriction.

(C) No change.

(c) Effecting Change and Imposition of Interim Restrictions

(1) A member shall file an application for approval of a change in ownership or control at least 30 days prior to such change. A member may effect a change in ownership or control prior to the conclusion of the proceeding, but the Department may place new interim restrictions on the member [based on the standards in Rule 1014,] pending final Department action.

(2)–(3) No change.

(d) Rejection Of Application That Is Not Substantially Complete

If the Department determines within [30]*15 business* days after the filing of an application that the application is not substantially complete, the Department may reject the application and deem it not to have been filed. In such case, within the [30]*15* day period, the Department shall serve a written notice on the Applicant of the Department's determination and the reasons therefor. If the Applicant determines to continue to apply for approval of a change in ownership, control, or business operations, the Applicant shall submit a new application under this Rule.

(e) Request for Additional Documents and Information

Within [30]*15 business* days after the filing of an application, the Department shall serve a request for any additional information or documents necessary to render a decision on the application. The Department may request additional information or documents at any time during the application process. Unless otherwise agreed to by the Department and the Applicant, the Applicant shall file such additional information or documents with the Department within [30]*15 business* days after the Department's request.

(f) Membership Interview

(1) The Department may require the Applicant to participate in a membership interview within [30]*15 business* days after the filing of the application, or if the Department requests additional information or documents, within [30]*15 business* days after the filing of the additional information or documents by the Applicant.

(2)–(4) No change.

(g) Department Decision

(1) The Department shall consider the application, the membership interview, other information and documents provided by the Applicant or obtained by the Department, the public interest, and the protection of investors. [In rendering a decision on an application submitted under Rule 1017(a), the Department shall consider whether the Applicant and its Associated Persons meet each of the standards in Rule 1014(a). Where the Department determines that the Applicant or its Associated Person are the subject of any of the events set forth in Rule 1014(a)(3)(A) and (C) through (E), a presumption exists that the application should be denied. The Applicant may overcome the presumption by demonstrating that it can meet each of the standards in Rule 1014(a), notwithstanding the existence of any of the events set forth in Rule 1014(a)(3)(A) and (C) through (E).] *Unless the Department determines that there is a basis for denying (or conditioning) approval of the Applicant under the bases for denial in Rule 1014(a), the Department shall approve an application submitted under Rule 1017(a).*

(A) In rendering a decision on an application for approval of a change in ownership or control, or an application for approval of a material change in business operations that does not involve modification or removal of a membership agreement restriction, the Department shall determine if *there would be a basis for denying (or conditioning) approval of* the Applicant [would continue to meet] *under* the [standards]*bases for denail* in Rule 1014(a) upon approval of the application.

(B) In rendering a decision on an application requesting the modification or removal of a membership agreement restriction, the Department shall consider whether maintenance of the restriction is appropriate in light of:

(i) [the standards set forth in Rule 1014;]

[(ii)] the circumstances that gave rise to the imposition of the restriction;

[(iii)](*ii*) the Applicant's operations since the restriction was imposed;

[(iv)](*iii*) any change in ownership or control or supervisors and principals; and

[(v)](*iv*) any new evidence submitted in connection with the application.

(2) The Department shall serve a written decision on the application within [30] *15 business* days after the conclusion of the membership interview or the filing of additional information or documents, whichever is later. If the Department does not require the Applicant to participate in a membership interview or request additional information or documents, the Department shall serve a written decision within [45] *20 business* days after the filing of the application under paragraph (a). The decision shall state whether the application is granted or denied in whole or in part, and shall provide a rationale for the Department's decision, referencing the applicable standard in Rule 1014.

(3) If the Department fails to serve a decision within [180] *90* days after filing of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the Nasdaq Board requesting that the Nasdaq Board direct the Department to issue a decision. Within seven days after the filing of such a request, the Nasdaq Board shall direct the Department to issue a written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the Nasdaq Board may extend the time limit for issuing a decision by not more than [30] *15 business* days.

(4) Notwithstanding anything in this Rule 1017 to the contrary:

(A) in the event that a Nasdaq member that is also a FINRA member submits an application for approval under this Rule and such member is also required to submit an application under NASD Rule 1017, the Department shall not be required to serve a written decision under this rule until 10 business days after FINRA serves a written decision; and

(B) in the event that a proposed change in ownership, control, or business operations by a Nasdaq member requires such member to become a member of FINRA, the Department shall not be required to serve a written decision under this rule until 10 business days after the Nasdaq member becomes a FINRA member.

(4) No change.

(h)–(k) No change.

* * * * *

1020. Registration of Principals

1021. Registration Requirements

(a)–(d) No change.

(e) Requirement of Two Registered Principals for Members

(1) A Nasdaq member, except a sole proprietorship, shall have at least two officers or partners who are registered as principals with respect to each aspect of the member's investment banking and securities business pursuant to the applicable provisions of Rule 1022; *provided, however, that a proprietary trading firm with 25 or fewer registered representatives shall only be required to have one officer or partner who is registered as a principal.* This requirement applies to persons seeking admission as members and existing members.

(2)–(3) No change.

* * * * *

1032. Categories of Representative Registration

(a)–(e) No change.

(f) Limited Representative—Equity Trader

(1) Each person associated with a member who is included within the

definition of a representative as defined in Rule 1011 must register with Nasdaq as a Limited Representative—Equity Trader if, with respect to transactions in equity, preferred or convertible debt securities on Nasdaq, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with *(A)* a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member, *or (B) a proprietary trading firm.*

(2) No change.

(g)–(h) No change.

* * * * *

1130. Reliance on Current Membership List

The Nasdaq Secretary shall keep a currently accurate and complete membership roll, containing the name and address of each Nasdaq member, and the name and address of the executive representative of each Nasdaq member. In any case where a membership has been terminated, such fact shall be recorded together with the date on which the membership ceased. The membership roll of Nasdaq shall at all times be available to all members of Nasdaq, to all governmental authorities, and to the general public; *provided, however, that the names and addresses of executive representatives shall not be available to members or the general public.* For the purpose of complying with pertinent Rules, a member shall be entitled to rely on such membership roll.

* * * * *

1150. Executive Representative

Each Nasdaq member shall appoint and certify to the Secretary of Nasdaq one ''executive representative'' who shall represent, vote, and act for the Nasdaq member in all the affairs of Nasdaq; provided, however, that other representatives of a Nasdaq member may also serve on the Nasdaq Board or committees of Nasdaq or otherwise take part in the affairs of Nasdaq. *If a Nasdaq member is also a member of FINRA, the Nasdaq executive representative shall be the same person appointed to serve as the FINRA executive representative.* A Nasdaq member may change its executive representative or appoint a substitute for its executive representative upon giving notice thereof to the Nasdaq Secretary via electronic process or such other process as Nasdaq may prescribe. An executive representative of a Nasdaq member or a substitute shall be a member of senior management and registered principal of the Nasdaq member. Each executive representative shall maintain an Internet electronic mail account for communication with Nasdaq and shall update firm contact information as prescribed by Nasdaq. Each member shall review and, if necessary, update its executive representative designation and contact information within 17 business days after the end of each calendar quarter.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to amend its 1000 Series rules governing the process for applying to become a member of Nasdaq. When Nasdaq first adopted membership rules as an exchange in 2006, it based Rules 1013 and 1014, which stipulate the content of a membership application and the standards for review and approval, primarily on corresponding rules of the then National Association of Securities Dealers (''NASD'').[3] However, Nasdaq also adopted Rule 1013(a)(6)(C), which allows any FINRA member in good standing to become a Nasdaq member through an expedited waive-in application. This approach reflected the fact that (i) the Nasdaq market had formerly been operated as a facility of NASD and virtually all Nasdaq market participants were NASD members, and (ii) FINRA's subsidiary, NASD Regulation, is party to a regulatory services agreement with Nasdaq, under which FINRA, among other things, processes membership applications for Nasdaq. Accordingly, it was felt that maintaining similar rules would facilitate efficient review of applications by non-FINRA members, since FINRA members would become Nasdaq members through the expedited waive-in process.

As a result of section 15(b)(8) of the Act[4] and the exemption therefrom provided by Rule 15b9–1 under the Act,[5] moreover, a potential Nasdaq member must also be a member of FINRA unless it (i) carries no customer accounts, and (ii) has annual gross income derived from purchases and sales of securities otherwise than on an exchange of which it is a member in an amount no greater than $1000. Nasdaq underscored this requirement in its own Rule 1014, which provides that an applicant for membership that will transact business with the public must be a member of FINRA. Accordingly, the only applicants for Nasdaq membership using the full membership application process have been, and logically will continue to be, proprietary trading firms that are not, and are not required to become, members of FINRA. Because the Nasdaq application process is derived directly from FINRA rules, however, it is not well suited to review of these applicants, because FINRA rules focus extensively on a member's relationship with its customers.

Nasdaq Rule 1014 also provides that an applicant for Nasdaq membership must already be a member either of FINRA or of another national securities exchange. As a result, all applicants for membership in Nasdaq already have an Examining Authority for purposes of Rule 15c3–1 under the Act[6] when they apply. Although there is nothing that would prevent Nasdaq from becoming a member's Examining Authority at a later date if the Commission so designated it, Nasdaq believes that its membership application rules should reflect the applicant's current status with respect to another self-regulatory organization (''SRO''), and therefore do not need to require the same degree of financial information about the applicant as would be the case if the applicant had not previously been a member of an SRO.

Nasdaq is not, however, proposing to reduce the regulatory scrutiny to which applicants are subject to a level below that provided by other SROs; rather,

[3] In late July 2007, NASD changed its name to the Financial Industry Regulatory Authority (''FINRA''). Accordingly, we use the term NASD in this filing only (i) when referring to period of time before the name change, and (ii) with respect to rules that are still officially designated by FINRA as ''NASD rules.''

[4] 15 U.S.C. 78o(b)(8).

[5] 17 CFR 240.15b9–1.

[6] 17 CFR 240.15c3–1.

Nasdaq seeks merely to redirect the focus of the process away from procedures derived from FINRA's role as primary regulator of firms with public customers and its status as Examining Authority for a large percentage of U.S. broker-dealers. In drafting its new proposed procedures, Nasdaq has reviewed the application procedures of other exchanges—principally NYSE Arca, Inc. and the International Securities Exchange, LLC—and has adopted standards that it believes are well designed to allow an evaluation of applicant's ability to comply with Nasdaq and SEC Rules.

As the framework for the new process, Nasdaq is proposing to define the term ''proprietary trading firm'' to mean an applicant for membership with the following characteristics: (i) The Applicant is not required to become a FINRA member under section 15(b)(8) of the Act but is a member of another registered securities exchange not registered solely under section 6(g) of the Act; (ii) all funds used or proposed to be used by the Applicant for trading are the Applicant's own capital, traded through the Applicant's own accounts; (iii) the Applicant does not, and will not have ''customers,'' as that term is defined in Nasdaq Rule 0120(g); and (iv) all Principals and Representatives of the Applicant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Applicant. Nasdaq also proposes to amend the definition of ''material change in business operations'' in Rule 1011 to include ''adding business activities that would cause a proprietary trading firm no longer to meet the definition of that term. * * *'' As a result, if a firm became a member based on its status as a proprietary trading firm but then sought to expand its activities to include dealings with customers, the member would be required to undergo an assessment and obtain approval of this change under Rule 1017. As currently reflected in that Rule, a material change in business operations requires an application that describes in detail the change in ownership, control, or business operations and include a business plan, pro forma financials, an organizational chart, and written supervisory procedures reflecting the change.

Under the new application process, an applicant would be required to submit the following information in its application:

- A copy of the Applicant's current Form BD;
- An original Nasdaq-approved fingerprint card for each Associated Person who will be subject to Rule 17f–2 under the Act and for whom a fingerprint card has not been filed with another SRO;
- Nasdaq's application fee, as provided in Nasdaq Rule 7001;
- A description of the Applicant's proposed trading activities on Nasdaq, such as the types of securities it will trade, whether it will be a market maker, an order entry firm, and/or engage in block trading activities, and the extent to which the Applicant is conducting such activities as a member of other SRO(s);
- A copy of the Applicant's most recent audited financial statements and a description of any material changes in the Applicant's financial condition since the date of the financial statements;
- An organizational chart;
- The intended location of the Applicant's principal place of business and all other offices, if any, whether or not such offices would be required to be registered under the Nasdaq Rules, and the names of the persons who will be in charge of each office;[7]
- A description of the communications and operational systems the Applicant will employ to conduct business and the plans the procedures, the Applicant will employ to ensure business continuity, including: system capacity to handle the anticipated level of usage; contingency plans in the event of systems or other technological or communications problems or failures; system redundancies; disaster recovery plans; and system security;
- A copy of any decision or order by a federal or state authority or self-regulatory organization taking permanent or temporary adverse action with respect to a registration or licensing determination regarding the Applicant or an Associated Person;
- A statement indicating whether the Applicant is currently, or has been in the last ten years, the subject of any investigation or disciplinary proceeding conducted by any self-regulatory organization, the foreign equivalent of a self-regulatory organization, a foreign or international securities exchange, a contract market designated pursuant to the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, a futures association registered under the Commodity Exchange Act or any substantially similar foreign statute or regulation, the Commission or any other ''appropriate regulatory agency'' (as defined in the Act), the Commodity Futures Trading Commission, or any state financial regulatory agency regarding the Applicant's activities that has not been reported to the Central Registration Depository, together with all relevant details, including any sanctions imposed;
- A statement indicating whether any person listed on Schedule A of the Applicant's Form BD[8] is currently, or has been in the last ten years, the subject of any investigation or disciplinary proceeding conducted by any self-regulatory organization, the foreign equivalent of a self-regulatory organization, a foreign or international securities exchange, a contract market designated pursuant to the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, a futures association registered under the Commodity Exchange Act or any substantially similar foreign statute or regulation, the Commission or any other ''appropriate regulatory agency'', the Commodity Futures Trading Commission, or any state financial regulatory agency regarding the Applicant's activities that has not been reported to the Central Registration Depository, together with all relevant details, including any sanctions imposed;
- A copy of any contract or agreement with another broker-dealer, a bank, a clearing entity, a service bureau or a similar entity to provide the Applicant with services regarding the execution or clearance and settlement of transactions effected on Nasdaq;
- If the Applicant proposes to make markets on Nasdaq, a description of the source and amount of Applicant's capital to support its market making activities on Nasdaq, and the source of any additional capital that may become necessary;
- A description of the financial controls to be employed by the Applicant with respect to Nasdaq Rule 3011, which governs anti-money laundering controls;
- A copy of the Applicant's written supervisory procedures with respect to the Applicant's proposed trading activities on Nasdaq;
- A list of the persons conducting the Applicant's market making and other trading activities, and a list of the persons responsible for such persons' supervision, together with the CRD number (if applicable) or a copy of Form U–4 for each such person;
- Unless previously provided to FINRA, a FINRA Entitlement Program Agreement and Terms of Use and an

[7] For most proprietary trading firms, there would be only one office.

[8] The direct owners and executive officers of the Applicant.

Account Administration Entitlement Form; [9]

- A copy of the Applicant's most recent ''FOCUS Report'' (Form X–17A–5) filed with the Commission pursuant to Rule 17a–5 under the Act (the most current Parts I, II, and III, as applicable);
- All examination reports and corresponding responses regarding the Applicant for the previous two years from the self-regulatory organizations of which it is a member;
- An agreement to comply with the federal securities laws, the rules and regulations thereunder, the Nasdaq Rules, and all rulings, orders, directions, and decisions issued and sanctions imposed under the Nasdaq Rules;
- An agreement to pay such dues, assessments, and other charges in the manner and amount as from time to time shall be fixed pursuant to the Nasdaq Rules; and
- Such other reasonable information with respect to the applicant as Nasdaq may require.

In addition, as currently provided by Rule 1013, an applicant is required to submit its Forms U4 for each Associated Person who is required to be registered under Nasdaq Rules and any required amendments to its Forms BD or U4. As under the current rule, Applicants must keep their application current by submitting amendments if facts and circumstances change. Without limiting the generality of this requirement, Applicants must promptly notify the Department of any material adverse change in financial condition.

Nasdaq is also amending Rule 1014 to replace the specific findings that must be made prior to admission of a FINRA member with more general bases for denial of membership. Specifically, the revised rule would provide that the Nasdaq Membership Department [10] shall approve an application unless there is a basis for denying or conditioning approval.[11] The rule further provides that the Department may deny (or condition) approval of an Applicant for the same reasons that the Commission may deny or revoke a broker or dealer registration and for those reasons required or allowed under the Act. Without limiting the generality of the foregoing, the amended rule lists specific bases upon which the Department may deny (or condition) approval of an Applicant. These bases include the inability of the Applicant to satisfactorily demonstrate capacity to adhere to applicable Nasdaq and Commission policies, rules, and regulations, including, those concerning record-keeping, reporting, finance, and trading procedures. For example, an Applicant whose written supervisory procedures did not adequately describe the means by which the firm would assure compliance by its traders with applicable market rules would be denied on that basis. Similarly, past rule violations would be a basis for denial if the firm had not taken adequate steps to guard against recurring offenses.

Other bases for denial would include factors indicative of financial difficulties, such as not being in compliance with the Commission's net capital rule; having financial difficulties involving an amount that is more than 5% of the Applicant's net worth; being subject to a current or recent bankruptcy proceeding; or engaging in an established pattern of failure to pay just debts. Finally, denial could be based on failure to have required governmental and SRO registrations, or being unable to demonstrate reasonably adequate systems capability and capacity.

The revised rule will continue to provide that the Department will not approve an Applicant unless the Applicant is a member of another registered securities exchange or association that is not registered solely with respect to futures based on single stocks or narrow indexes; and that an Applicant that will transact business with the public must be a member of FINRA. The proposed rule change also makes conforming changes to provisions of Rule 1014, 1015, and 1017 that refer to the standards for admission in Rule 1014.

The proposed rule change also reduces the time allotted for various aspects of review, both for initial applications and for changes of ownership, control and business operations under Rule 1017. This change reflects the fact that all applicants will be proprietary trading firms, whose operations are less complex than those of firms with customers that are required to become FINRA members, and are also members of other SROs that serve as their Examining Authority. In addition, FINRA may conduct review of Nasdaq member applications under the revised rule using personnel located in the Washington, DC area, rather than using personnel at FINRA district offices as had previously been the case; centralizing review has the potential to reduce the time needed to process applications. However, with respect to a FINRA member or a firm that is required to become a FINRA member due to a change in ownership, control, or business operations, the rule is being amended to provide that the Department is not required to take action on an application for approval under Rule 1017 until FINRA has acted on the comparable application under its rule or the firm has become a FINRA member, as applicable. Similarly, the proposed rule change would make the membership interview for the initial application process optional at the discretion of the Department, since the interview process does not exist under the rules of most SROs and is of less importance with respect to proprietary trading firms. However, the Department would retain discretion to require an interview if determined necessary to clarify aspects of an application, in which case the time allotted for completion of the application review process by the Department would be expanded accordingly.

In recognition of the lower risk profile presented by a small member that does not interact with customers, Nasdaq is also amending Rule 1021 to provide that a proprietary trading firm with 25 or fewer registered representatives is required to have only one, rather than two registered principals. Similarly, Nasdaq proposes to eliminate the requirement that traders for proprietary trading firms register as equity traders under Rule 1032(f). FINRA's Series 55 exam, which is required for registration as an equity trader, continues to have a predominant focus on the over-the-counter market and the complexities of FINRA trade reporting rules applicable to it, as well as rules relating to customers. Because a proprietary trading firm is not, by definition, required to be a FINRA member, Nasdaq believes that requiring traders for these firms to register in this capacity requires them to master a body of knowledge with little relevance to their actual participation in the market. Accordingly, Nasdaq believes that it constitutes an unwarranted regulatory burden.[12]

Finally, Nasdaq proposes to amend Rules 1130 and 1150 to simplify Nasdaq and member recordkeeping with regard to executive representatives of Nasdaq members that are also FINRA members by requiring that a firm's executive representative under Nasdaq rules be the same as its executive representative under FINRA rules. In keeping with

[9] Needed for use of FINRA's CRD system.

[10] The term includes FINRA staff acting on Nasdaq's behalf.

[11] A similar change would be made in Rule 1017, providing that an application for a material change in business operations shall be approved unless there is a basis for denying it under the standards in Rule 1014.

[12] If a proprietary trading firm opted to become a FINRA member even though it was not required to, its traders would be required to take the Series 55 exam and register as equity traders under FINRA rules.

FINRA policies, moreover, Nasdaq is amending the rule to stipulate that the identity of the executive representative is non-public information. This restriction ensures that personal contact information for executive representatives is not used for improper purposes.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[13] in general, and with section 6(b)(5) of the Act,[14] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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 Nasdaq 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–NASDAQ–2007–085 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–NASDAQ–2007–085. 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 Nasdaq. 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–NASDAQ–2007–085 and should be submitted on or before November 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21740 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56726; File No. SR–NYSE–2007–96]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 80A (Index Arbitrage Trading Restrictions)

October 31, 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 October 25, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The NYSE filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) 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 is proposing to rescind NYSE Rule 80A (Index Arbitrage Trading Restrictions) to eliminate order entry restrictions on certain index arbitrage orders entered on the Exchange. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

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 rescind NYSE Rule 80A (Index Arbitrage Trading Restrictions) and thereby eliminate the ''collar'' provisions of the rule. Currently, NYSE Rule 80A(a) and (b) require that, for any component stock of the S&P 500 Stock Price Index℠, whenever the NYSE Composite Index® (''NYA'')[5] advances or declines by a predetermined value from its previous day's closing value, all index arbitrage orders to buy or sell (depending on the direction of the move in the NYA) must be entered as either ''buy minus'' or ''sell plus.''[6] The tick restrictions are imposed based upon a ''two-percent value'' change in the NYA from its prior day's closing value, where the ''two-percent change'' is two percent of the average closing value of the NYA for the last month of the previous calendar quarter, rounded down to the nearest ten points. The order entry conditions are lifted if the NYA recovers to within one percent of the previous day's closing value, and can be reimposed if the average moves away by two percent again during a trading session.

NYSE Rule 80A

NYSE states that NYSE Rule 80A was formulated as one of the responses to the market break of October 1987 to reduce market volatility and promote investor confidence.[7] In its initial form, the rule used a measure of a 50 point move in the Dow Jones Industrial Average℠ to activate restrictions on order entry in S&P 500 stocks into Exchange systems.[8] The restrictions were triggered on relatively few occasions throughout the early 1990s (for example, only 9 times in 1993), but were increasingly invoked as volatility heightened later in the decade (366 times in 1998). The basis for the restrictions calculation was changed in 1999 from 50 points to the two percent value discussed above.[9] This had the effect of reining in the imposition of the restrictions; in fact, they were imposed only once during 2004–2005. They have been imposed 15 times so far in 2007.

The Exchange is making this change since it does not appear that the approach to market volatility envisioned by the use of these ''collars'' is as meaningful today as when the rule was formalized in the late 1980s. In the Exchange's view, volatility is neither restrained nor enhanced by the imposition of the collars. It is as likely that markets will reverse trends whether or not Rule 80A is invoked. In addition, NYSE Rule 80A addresses only one type of trading strategy, namely index arbitrage, whereas the number and types of strategies have increased markedly in the last 20 years and may as well contribute to the increase in or lack of volatility. Indeed, in approving the Exchange's expansion of the collars to the two percent level in 1999, the Commission stated that ''[i]t may make little sense to single out index arbitrage, which ensures that markets are aligned economically, from all other types of program trading.''[10]

As markets have continually and significantly evolved in the years since the original rule was adopted, similar regulatory constraints on trading have been removed. For example, earlier this year, the Commission ended price tick restrictions on short sales by removing Rule 10a–1,[11] a regulation adopted almost 70 years ago.[12] In doing so, the Commission discussed the practice of applying different price tests to trading in different securities and markets. This is true in NYSE Rule 80A as well since its tick restrictions apply only to index arbitrage orders in S&P 500 component stocks.

For these reasons, the Exchange believes it is appropriate to remove the order entry restrictions of NYSE Rule 80A.

Definitions in NYSE Rule 80A

Definitions in NYSE Rule 80A.40(a) and (b) for the terms ''index arbitrage'' and ''program trading'' are proposed to be repositioned in NYSE Rule 132B (Order Tracking Requirements) as they continue to be part of the Exchange's regulatory agenda.[13] The definition of ''account of an individual investor'' in NYSE Rule 80A.40(c) is proposed to be made part of NYSE Rule 92.40 as this rule currently refers to this definition in NYSE Rule 80A.

Other Rule Amendments

Conforming amendments to two other Exchange rules are proposed as a consequence of the proposed amendments to NYSE Rule 80A.

NYSE Rule 123C—This rule details the procedures for ''market on close'' (MOC) and ''limit on close'' (LOC) order entry, publication of imbalances and closing prints. Generally, MOC or LOC orders are not cancelable after 3:40 p.m., except to correct certain errors or to comply with the order entry requirements of NYSE Rule 80A, if the two percent collars are in effect. References to the NYSE Rule 80A provisions are proposed to be removed in Rule 123C (1) and (2).

NYSE Rule 123C(7)—This rule establishes procedures for exceptions to NYSE Rule 80A's entry restrictions for MOC index arbitrage orders on so-called ''expiration days'', *i.e.*, the day when expiring stock and index option and futures products' pricing is established, usually the third Friday of the month. It is proposed that this section be rescinded entirely.

NYSE Rule 476A—This rule establishes procedures to enable the Exchange to impose appropriate sanctions for less serious violations of Exchange rules. References to violations of NYSE Rule 80A contained in the list of rules subject to these procedures are proposed to be deleted.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act[14] 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

[5] The trigger values were originally based on movement in the value of the Dow Jones Industrial Average, but were changed in 2005. *See* Securities Exchange Act Release No. 52328 (August 24, 2005), 70 FR 51398 (August 30, 2005) (SR–NYSE–2005–45).

[6] NYSE Rule 13 defines a ''buy minus'' order as an order to buy a stated amount of stock provided that the price to be obtained is not higher than the last sale if the last sale was a ''minus'' or ''zero minus'' tick, and is not higher than the last sale minus the minimum fractional change in the stock if the last sale was a ''plus'' or ''zero plus'' tick. A ''sell plus'' order is defined as an order to sell a stated amount of a stock provided that the price to be obtained is not lower than the last sale if the last sale was a ''plus'' or ''zero plus'' tick, and is not lower than the last sale plus the minimum fractional change in the stock if the last sale was a ''minus'' or ''zero minus'' tick.

[7] Rule 80A was originally approved by the Commission in April 1988. *See* Securities Exchange Act Release No. 25599 (April 19, 1988), 53 FR 13371 (April 22, 1988) (SR–NYSE–88–02).

[8] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Co., Inc.

[9] *See* Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999) (SR–NYSE–98–45).

[10] *Id.* at 8246.

[11] 17 CFR 240.10a–1.

[12] *See* Securities Exchange Act Release No. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

[13] Earlier this year, the Exchange advised its member organizations of new reporting requirements for program trading activities, including index arbitrage activities. *See* NYSE Regulation Information Memo No. 07–52 (June 11, 2007). If the proposed relocation of the definitions of ''index arbitrage'' and ''program trading'' is approved, the Exchange will inform member organizations of these reporting obligations.

[14] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

NYSE has requested that the Commission waive the 30-day operative delay.[17] The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because rescission of NYSE Rule 80A would remove restrictions on index arbitrage, the appropriateness of which the Commission has previously questioned.[18] For this reason, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.[19]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–YSE–2007–96 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–NYSE–2007–96. 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 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–2007–96 and should be submitted on or before November 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21773 Filed 11–5–07; 8:45 am]

BILLING CODE 8011–01–P

[15] U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii). Rule 19b–4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

[18] *See* Securities Exchange Act Release No. 41041, *supra* note 18, at 8426. There, the Commission also noted that it "may make little sense to single out index arbitrage, which ensures that markets are aligned economically, from all other types of program trading. Indeed, the restrictions on index arbitrage may tend to disconnect the securities and futures markets and impose unnecessary costs on market participants." *Id.*

[19] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11081 and # 11082]

Connecticut Disaster # CT–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Connecticut dated 10/25/2007.

Incident: Severe Storms and Flooding.

Incident Period: 10/11/2007.

Effective Date: 10/25/2007.

Physical Loan Application Deadline Date: 12/24/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 07/25/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Fairfield.

Contiguous Counties:

Connecticut: Litchfield, New Haven.

New York: Dutchess, Putnam, Westchester.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	6.250
Homeowners Without Credit Available Elsewhere	3.125
Businesses With Credit Available Elsewhere	8.000
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

	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 11081 6 and for economic injury is 11082 0.

The States which received an EIDL Declaration # are Connecticut, New York.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Steven C. Preston,

Administrator.

[FR Doc. E7–21818 Filed 11–5–07; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2007–0086]

Social Security Claims Data Exchange Announcement

AGENCY: Social Security Administration.

ACTION: Notice of Invitation to Social Security Benefits Service Providers for Web Service Beta Test.

SUMMARY: The Social Security Administration (SSA) is pleased to announce that, in 2008; the agency will develop and implement a Beta test of a web service which will allow the submission of Initial-level claims, including Disability applications and Adult Disability Reports, from companies who assist the public with filing for benefits.

In 2008, SSA plans to develop the web service to initially collect data on the Internet Social Security Benefit Application and Disability Report. Note that when a third party submits an application, SSA must contact the claimant before it is considered valid. In the initial phase, organizations will be able to submit claims data in bulk and receive a confirmation of receipt of the submitted data. In subsequent phases, the systems interface will also include the ability for organizations to check on the status of previously submitted claims information.

SSA would like to extend an invitation to companies who assist individuals with their Social Security benefit applications, to participate in this web service claims data exchange Beta test. The Beta test is structured to use the ''consolidator'' model, where the participating company serves as a conduit to receive claims data from their client base and electronically transfer the data to SSA.

After the initial disability claims data collection effort in 2008 is evaluated, SSA will add functional capabilities in future years to collect data on electronic appeal forms and integrated claims applications. This multi-year initiative will provide a comprehensive systems interface for companies to send claims data (including Title II Retirement and Spouse application data, disability data, and medical evidence) to SSA on behalf of their clients. The envisioned long-range solution beyond 2008 is a web service that will facilitate the collection of data through the entire life-cycle of Internet applications, including Title II and Title XVI initial claims and appeals.

DATES: Companies which are interested in participating in this web service beta test and meet the criteria should send an e-mail to *Claims.Data.Transfer@ssa.gov* by November 8, 2007. Upon receipt of your e-mail we will invite you to a teleconference that is planned for November 15, 2007 to discuss any questions that you may have. Please note that prior to the teleconference all companies will be expected to sign a participation agreement attesting that the selection criteria is met. Reference *Web Service Beta Test* in the subject field of your e-mail and include the following information: Contact name, mailing address, phone and facsimile numbers, and e-mail address.

FOR FURTHER INFORMATION CONTACT: Tammy Joyner, 410–966–2838.

SUPPLEMENTARY INFORMATION:

Basic Functionality

SSA is interested in expanding the relationship with businesses by allowing the submission of claims-related data to SSA for multiple applicants using standardized data exchange protocols. SSA would like to leverage the data that businesses may already have in their records, without requiring the labor-intensive process of keying information into a web interface one claim at a time.

Technical Information

The Social Security Benefits Data Web Service will be a J2EE application which uses Simple Object Access Protocol (SOAP) and Web Services Description Language (WSDL) specifications. The secure offering adheres to Version 1.0 of the Web Services-Interoperability Organization (WS–I) Basic Profile. SOAP message integrity will be ensured by following Web Services Security Version 1.0 standards. Because of this approach to standardization, Third Party Bulk Claims Providers can program in their environment of choice (e.g., Java, Visual Studio, .NET, and Perl) to invoke the service and feel confident that their claims data submissions will not be compromised upon delivery to SSA. The Web Service will be integrated into SSA's existing Secure Web Services Architecture which requires the WS-Security Username Token Profile and Digital Signature standards.

The claims data Web service will accept XML file format as input, and these files may be optionally compressed. Files may be attached to the message using the SOAP Message Transmission Optimization Mechanism, or they may be transmitted inline as base64 encoded data.

Throughout 2008, SSA will be finalizing this Social Security Benefits Data Web Service offering and allowing businesses to participate in planned Beta tests. The WSDL which is required to invoke the service will be made available to the public next year with a developer's guide to follow shortly thereafter. The participating businesses will need to register with SSA to obtain a Secure Web Service Integrated Registration Services (IRES) PIN/password and are prepared to support the Beta test period.

Tentative key dates for the Social Security Benefits Data Web Service are:

Design and Development (November 2007–July 2008).

Validation and Integration (July 2008–December 2008).

Beta Implementation of Internet Social Security Benefit Application data (September 2008).

Beta Implementation of Internet Disability Report data (December 2008).

Businesses must meet the following criteria in order to participate in this Beta Test:

1. Companies must have the current capability to write their own claims software, user guide and documentation.

2. Companies must have the current capability to electronically submit Initial-level disability claims to SSA for processing or provide the ability for their customers to equally do so.

3. Companies must have the ability to modify their claims submission environment in time to participate in testing with SSA beginning July 2008.

Participating organizations must also adhere to SSA's policies, procedures and laws relative, but not limited to: Disclaimers, liability, security, integrity, privacy, entitlement factors, and benefit eligibility. The sole intention is to provide a facilitating web service to

meet client demands. SSA retains the right to deny electronic delivery of claims data without confirmation of a valid electronic receipt. SSA reserves the right to deny and/or terminate testing and/or any agreements.

This is not a request for proposal and the Government does not intend to pay for information submitted. Nothing in this announcement or a contractor's subsequent participation in this Web service beta test shall be construed as obligating the Government to incur any participating company's costs in developing the web service.

Dated: October 31, 2007.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E7–21844 Filed 11–5–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Clark County, NV

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed Sheep Mountain Parkway Multimodal Transportation Project, which includes highway, transit, and non-motorized trail components, in Clark County, Nevada.

FOR FURTHER INFORMATION CONTACT: Mr. Abdelmoez A. Abdalla, Environmental Program Manager, Federal Highway Administration, 705 N. Plaza Street, Suite 220, Carson City, NV 89701, Telephone: (775) 687–1231, e-mail: *abdelmoez.abdalla@fhwa.dot.gov.* or Mr. Daryl James, Chief, Environmental Service Division, Nevada Department of Transportation (NDOT), 1263 S. Stewart Street, Carson City, Nevada 89712, Telephone: (775) 888–7686, e-mail: *djames@.dot.state.nv.us.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nevada Department of Transportation, the Regional Transportation Commission of Southern Nevada (RTC), and City of Las Vegas, will prepare an environmental impact statement (EIS) on a proposed multimodal transportation project in Clark County, Nevada. The FHWA will serve as the Lead Federal Agency while the NDOT will serve as Joint Lead Agency. The new 2005 SAFETEA–LU environmental review process will be followed. The proposed action is to preserve a right of way corridor, identify an alignment, and develop a facility type for the ''Sheep Mountain Parkway'' in and near northern portions of the City of Las Vegas and the City of North Las Vegas. The purpose of the proposed project is to accommodate travel demand resulting from existing and planned development in the northern Las Vegas Valley by considering multimodal transportation facilities. The proposed project will include new transportation facilities to provide a link between the Clark County 215 beltway, US 95, and I–15 (approximately 25 miles), as well as the arterial network in the northern Las Vegas Valley. The project will also connect to planned regional fixed guideway transit corridors on Rancho Road and North 5th Street.

The EIS will consider various improvement alternatives as well as a no action alternative. A feasibility study was conducted to assess multiple alignments and facility configuration options. Other alternatives will be considered as part of the public and environmental review process for this National Environmental Policy Act (NEPA) document. Public and agency scoping meetings are planned and will be held during the project development process. Letters describing the proposed project and soliciting comments will be sent to appropriate federal, state, and local agencies having special interest or expertise, as well as private organizations and citizens who have previously expressed or are known to have interest in the proposed project.

In addition, public meetings will be held during the project development process and a public hearing will be held for the draft EIS. Public notices will be given announcing the time and place of the public meetings and the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full ranges of issues related to this proposed action are addressed and significant issues are identified, comments and suggestions are invited from interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or NDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 42 U.S.C. § 4321 *et seq.,* 49 CFR 1.48(d)(17), and 40 CFR 1501.7

Issued on: October 30, 2007.

Susan Klekar,

Division Administrator, FHWA, Nevada Division.

[FR Doc. 07–5518 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on April 9, 2007 (72 FR 17598). No comments were received.

This document describes two collections of information for which NHTSA intends to seek OMB approval. The first ICR described is ''Consolidated Child Restraint Registration, Labeling and Defect Notification.'' The second ICR is ''Consolidated Labeling Requirements for Vehicles (Except the VIN).''

DATES: Comments must be submitted on or before December 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Maurice Hicks at the National Highway Traffic Safety Administration, Office of Rulemaking (NVS–113), 1200 New Jersey Ave., SE., Washington, DC 20590. Mr. Hicks' telephone number is (202) 366–6345.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

(1) *Title:* ''Consolidated Child Restraint System Registration, Labeling and Defect Notifications.''

OMB Control Number: 2127–0576.

Type of Request: Revised Collection.

Abstract: This action consolidates two existing collections of information. In the previous collections of information: (1) A collection was established to require manufacturers to provide owner registration cards and to label each child

restraint system (CRS) with a message informing users of the importance of registering the device with the manufacturer, and (2) another collection was issued to allow NHTSA to implement a registration program to send CRS owners a substitute registration form if owners had lost the registration card (OMB control numbers 2127–0511, ''49 CFR 571.213, Child Restraint Systems,'' and 2127–0576, ''Child Safety Seat Registration''). Furthermore, in the second collection, it was also required that if either NHTSA or a manufacturer determines that a CRS contains a defect that relates to motor vehicle safety or fails to comply with an applicable Federal Motor Vehicle Safety Standard, pursuant to Chapter 301 of title 49 of the United States, the manufacturer must notify owners and purchasers of the defect or noncompliance and must provide a remedy without charge. The proposed revised collection will consolidate these provisions but will retain the control number of the second collection.

Child restraint manufacturers are required to provide an owner's registration card for purchasers of child safety seats in accordance with title 49 of the Code of Federal Regulation (CFR), part 571—section 213, ''Child restraint systems.'' The registration card is perforated into two-parts (see Figures 1 and 2). The top part contains a message and suitable instructions to be retained by the purchaser. The bottom part is to be returned to the manufacturer by the purchaser. The bottom part includes prepaid return postage, the pre-printed name/address of the manufacturer, the pre-printed model and date of manufacture, and spaces for the purchaser to fill in his/her name and address. Optionally, child restraint manufacturers are permitted to add to the registration form: (a) Specified statements informing CRS owners that they may register online; (b) the Internet address for registering with the company; (c) revisions to statements reflecting use of the Internet to register; and (d) a space for the consumer's e-mail address. For those CRS owners with access to the Internet, online registration may be a preferred method of registering a CRS.

In addition to the registration card supplied by the manufacturer, NHTSA has implemented a CRS registration system to assist those individuals who have either lost the registration card that came with the CRS or purchased a previously owned CRS. Upon the owner's request, NHTSA provides a substitute registration form that can be obtained either by mail or from the Internet [1] (see Figure 3). When the completed registration is returned to the agency, it is then submitted to the CRS manufacturers. In the absence of a substitute registration system, many owners of child passenger safety seats, especially any second-hand owners, might not be notified of safety defects and noncompliances, and would not have the defects and noncompliances remedied.

Child seat owner registration information is retained in the event that owners need to be contacted for defect recalls or replacement campaigns. Chapter 301 of title 49 of the United States Code specifies that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal motor vehicle safety standard, the manufacturer must notify owners and purchasers of the defect or noncompliance and must provide a remedy without charge. In title 49 of the CFR, part 577, defect and noncompliance notification for equipment items, including child restraint systems, must be sent by first class mail to the most recent purchaser known to the manufacturer.

Child restraint manufacturers are also required to provide a printed instructions brochure with step-by-step information on how the restraint is to be used. Without proper use, the effectiveness of these systems is greatly diminished. Each child restraint system must also have a permanent label. A permanently attached label gives ''quicklook'' information on whether the restraint meets the safety requirements, recommended installation and use, and warnings against misuse.

Affected Public: Business, individuals and households.

Estimated Total Annual Burden: 265,500 hours.

(2) *Title:* Consolidated Labeling Requirements for Motor Vehicles (Except the VIN).

OMB Control Number: 2127–0512.

Type of Request: Revised Collection.

Abstract: Because of the similarities in the collections of information, NHTSA seeks to combine the provisions of the existing collection for glazing materials into a collection for labeling information for five other Federal motor vehicle safety standards (OMB control numbers 2127–0038, ''49 CFR 571.205, Glazing Materials,'' and 2127–0512, ''Consolidated Labeling Requirements for Motor Vehicles'' (except the VIN)). NHTSA seeks to consolidate the two collections because the provisions for glazing materials in both collections are interrelated. The two collections address a process that vehicle manufacturers follow in first gaining a unique identification number from NHTSA and then labeling each piece of vehicle glazing with that number to verify compliance with Federal standards.

In order to ensure that motor vehicle safety is maintained and that manufacturers are complying with the FMVSS and regulations, NHTSA requires a number of specific labeling requirements. FMVSS No. 105, ''Hydraulic and electric brake systems'' and FMVSS No. 135, ''Light vehicle brake systems,'' require that each vehicle shall have a brake fluid warning statement in letters at least one-eighth of a inch high on the master cylinder reservoirs and located so as to be visible by direct view. FMVSS No. 205, ''Glazing materials,'' requires that manufacturers mark their automotive glazing with certain label information. In addition, for certain specialty glazing items, manufacturers are required to affix a removable label to each item. FMVSS No. 209, ''Seat belt assemblies,'' requires safety belts to be labeled with the year of manufacture, the model, and the name or trademark of the manufacturer. Additionally, replacement safety belts that are for use only in specifically stated motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions. All other replacement belts are required to be accompanied by an installation instruction sheet. Part 567, ''Certification,'' requires each manufacturer or distributor of motor vehicles to furnish to the dealer, or distributor of the vehicle, a certification that the vehicle meets all applicable FMVSS. This certification is required to be in the form of a label permanently affixed to the vehicle.

This notice seeks to approve the registration and labeling requirements of these FMVSS and regulations. Also, this notice seeks to correct errors that were made in the previous notice on the estimated total annual burden hours and costs. In the previous notice, NHTSA estimated that all manufacturers will need a total of 73,071 annual burden hours to comply with the requirements of the combined collections, at a total annual cost of $1,096,065. These estimates ignore the hours needed for glazing manufacturers to obtain an approved identification number and

[1] *http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/Vehicle%20Safety/Articles/Associated%20Files/csregfrm.pdf.*

develop stencils for marking each piece of vehicle glazing. Additionally, the total annual cost was derived at an hourly rate of $15 instead of $20, which is more appropriate given the required duties specified for the collections. To correct the error, an additional 1,066 burden hours are added which increases the estimated total annual burden to 74,137 hours and the total annual cost to $1,482,740 (calculated at a rate of $20 per hour).

Affected Public: Business.

Estimated Total Annual Burden: 74,137 hours.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments 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 most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on: October 31, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

BILLING CODE 4910–59–P

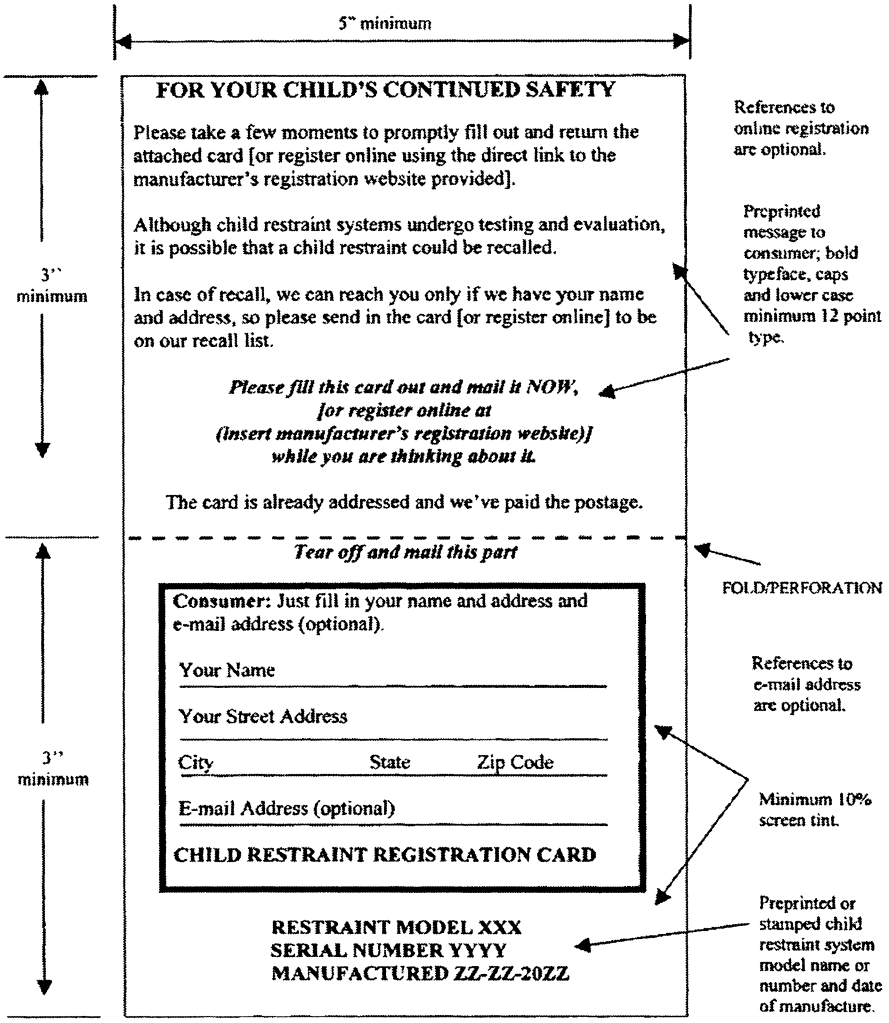

Figure 1 – Registration form for child restrain systems – product identification number and purchaser information side

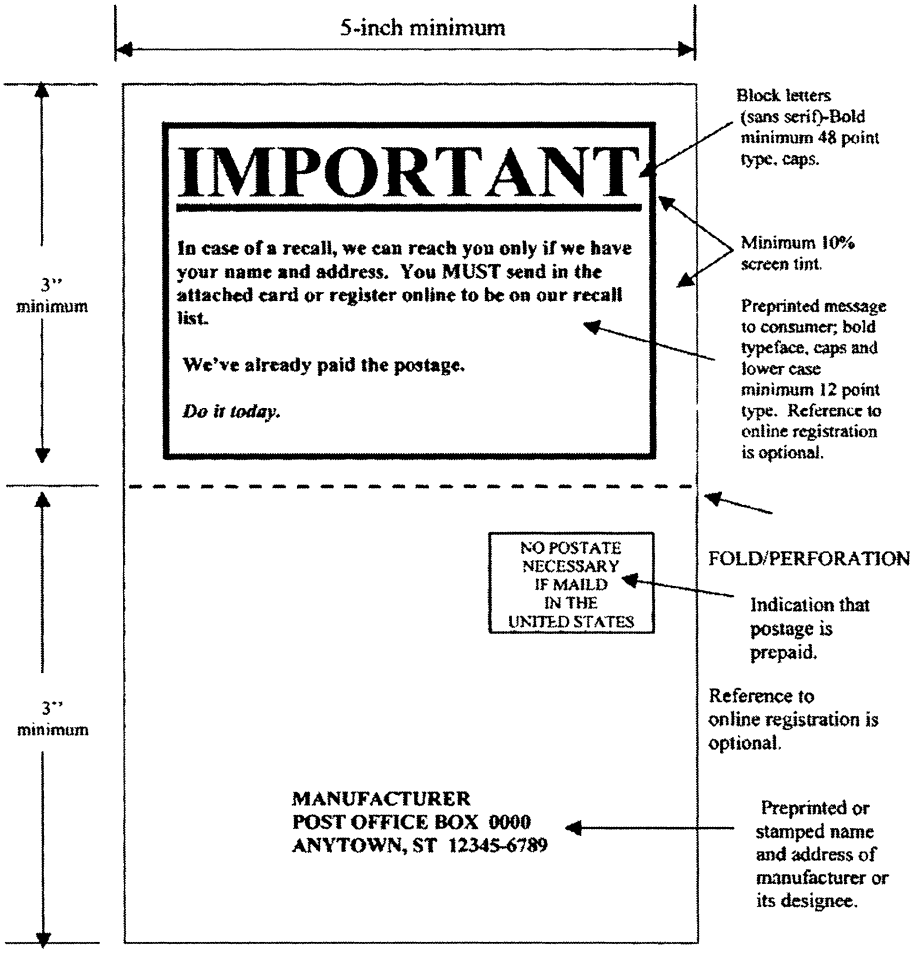

Figure 2 – Registration form for child restraints systems – address side

CHILD SAFETY SEAT REGISTRATION FORM
FOR YOUR CHILD'S CONTINUED SAFETY

Although child safety seats undergo testing and evaluation, it is possible that your child seat could be recalled. In case of a recall it is important that the manufacturer be able to contact you as soon as possible so that your seat can be corrected.

All child safety seats manufactured since March 1993 have a registration form so that owners can provide their names addresses to the manufacturer. In case of a safety recall, the manufacturer can use that information to send recall letters to owners. Also, child safety seat manufacturers have agreed to maintain owner names/addresses for child safety seats manufactured before March 1993, so they can notify those consumers in the event of a future safety recall. However, in order for the manufacturer to know which child safety seat you own all of the information on the lower half of this page must be provided.

If you would like the National Highway Traffic Safety Administration (NHTSA) to give your name and address to the manufacturer of your child safety seat, so that you can be notified of any future safety recalls regarding your child safety seat, fill out this form. Please type or print clearly, sign and mail this postage-paid pre-addressed form.

If you have any questions, or need help with any child safety seat or motor vehicle safety issue, call the U.S. Department of Transportation's toll-free Vehicle Safety Hotline at 1-888-424-9393 (Washington DC AREA RESIDENTS, 202-366-0123).

Your Name _____ Telephone _____

Your Street Address _____

City _____, State _____ Zip Code _____

IMPORTANT: The following information is essential and can be found on labels on your child seat.

Child Seat Manufacturer: _____

Child Seat Model Name & Number: _____

Child Seat Date of Manufacture: _____

I AUTHORIZE NHTSA TO PROVIDE A COPY OF THIS REPORT TO THE CHILD SAFETY SEAT MANUFACTURER.

SIGNATURE: _____ **DATE:** _____

Please mail to
U.S. Department of Transportation
National Highway Traffic Safety Administration
DOT Vehicle Safety Hotline
400 7th Street, SW
Washington, DC 20590

The Privacy Act of 1974 - Public Law 93-579, As Amended. This information is requested pursuant to the authority vested in the National Highway Traffic Safety Act and subsequent amendments. You are under no obligation to respond to this questionnaire. Your response maybe used to assist the NHTSA in determining whether a manufacturer should take appropriate action to correct a safety defect. If the NHTSA proceeds with administration enforcement or litigation against a manufacturer, your response, or statistical summary thereof, may be used in support of the agency's action.

Figure 3 – Illustration of Child Safety Seat Registration Form

[FR Doc. E7–21758 Filed 11–5–07; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Chrysler

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Chrysler, LLC, (Chrysler) petition for exemption of the Jeep Wrangler vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

DATES: The exemption granted by this notice is effective beginning with the 2009 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated August 30, 2007, Chrysler requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Jeep Wrangler vehicle line, beginning with MY 2009. The petition requested an exemption from parts-marking requirements pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. Chrysler has petitioned the agency to grant an exemption for its Wrangler vehicle line beginning with MY 2009. In its petition, Chrysler provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Chrysler will install its antitheft device as standard equipment on the MY 2009 Jeep Wrangler vehicle line. The antitheft device to be installed on the MY 2009 Jeep Wrangler, the Sentry Key Immobilizer System (SKIS) incorporates an ignition immobilizer system and an unauthorized vehicle start telltale light.

Chrysler stated that the (SKIS) prevents the engine from running for more than 2 seconds unless a valid electronically encoded key is in the ignition switch. The immobilizer feature is activated when the key is removed from the ignition switch whether the vehicle doors are open or closed. Once activated, only a valid key inserted into the ignition switch will disable immobilization and allow the vehicle to start and continue to run. The SKIS has a visual telltale located in the vehicle ElectroMechanical Instrument Cluster (EMIC). The components performing the immobilizer function in the SKIS are the Sentry Key Remote Entry Module (SKREEM), the Powertrain Control Module (PCM), and the Sentry Key. The ElectroMechanical Instrument Cluster (EMIC) controls the telltale function only.

Chrysler also stated that the SKREEM is the primary component of the SKIS and is also the receiver for the Remote Keyless Entry system and the Tire Pressure Monitor system. When the ignition switch is turned to the ''ON'' position, the SKREEM transmits a radio frequency (RF) signal to the transponder in the ignition key. If the response received identifies the key as valid, the SKREEM sends a valid key message to PCM over the PCI data bus, and the PCM allows the engine to continue to run. To avoid any perceived delay when starting the vehicle with a valid key and to prevent unburned fuel from entering the exhaust, the engine is permitted to run for no more than 2 seconds if an invalid key is used. If the response identifies the key as invalid, or if no response is received from the key transponder, the SKREEM sends an invalid key message to the PCM. The PCM will disable engine operation (after the initial 2-second run) based upon the status of the SKREEM messages. Chrysler stated that only six consecutive invalid vehicle start attempts are allowed and all other invalid attempts would be locked out by preventing the fuel injectors from firing and disabling the starter. Only communication with a valid key will permit the engine to start and run.

The telltale feature operates as a security indicator in the EMIC. The telltale alerts the owner that an unauthorized vehicle start attempt has been made. Upon an unauthorized start attempt, the telltale will flash on and off when the ignition switch is turned to the ''ON'' position. Besides acting as a security indicator, the telltale acts as a diagnostic indicator. If the SKREEM detects a system malfunction and/or the SKIS has become inoperative, the security indicator will stay on solid. If the SKREEM detects an invalid key or if a key transponder-related fault exists, the security indicator will flash.

Each ignition key used in the SKIS has an integral transponder chip included on the circuit board beneath the cover of the integral Remote Keyless Entry (RKE) transmitter. In addition to having to be cut to match the mechanical coding of the ignition lock cylinder and programmed for operation of the RKE system, each new Sentry Key has a unique transponder identification code that is permanently programmed into it by the manufacturer, and which must be programmed into the SKREEM to be recognized by the SKIS as a valid key. Once a Sentry Key has been programmed to a particular vehicle, it cannot be used on any other vehicle.

Chrysler stated that the proposed antitheft device does not provide any visible or audible indication of unauthorized entry. Chrysler also stated that the (SKIS) is designed to provide passive protection against unauthorized vehicle use and that the theft data has indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which it proposes to install on the Wrangler vehicle line. The agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

In addressing the specific content requirements of 543.6, Chrysler provided information on the reliability and durability of the device, Chrysler conducted tests based on its own specified standards and stated its belief that the device meets the stringent performance standards prescribed. Specifically, Chrysler stated that its device must demonstrate a minimum of 95 percent reliability with 90 percent confidence. In addition to the design and production validation test criteria, Chrysler stated that the SKIS also undergoes a daily short term durability test. In this test, three randomly chosen systems are tested for durability, once per shift at Chrysler's production facility. Chrysler also stated that 100% of its systems undergo a series of three functional tests prior to being shipped from the supplier to the vehicle assembly plant for installation in its vehicles.

Chrysler stated that its actual theft experience with Jeep Wrangler vehicles, not currently installed with an immobilizer system as standard equipment, indicates that these vehicles have a theft rate significantly lower than the 1990/1991 median theft rate of

3.5826. Chrysler stated that NHTSA's theft rates for the Jeep Wrangler vehicles for model years 2000, 2001, 2002, 2003 and 2004 are 1.9208, 2.4561, 1.9980, 1.4609 and 1.4406 respectively. Chrysler stated that vehicles subject to the parts marking requirements that subsequently are equipped with ignition immobilizer systems as standard equipment indicate that even lower theft rates can be expected from a vehicle equipped with standard ignition immobilizer systems.

Chrysler offered the Jeep Grand Cherokee vehicles as an example of vehicles subject to part 541 parts marking requirements that subsequently are equipped with ignition immobilizer systems as standard equipment. NHTSA's theft rates for the Jeep Grand Cherokee vehicles for model years prior to 1999 (1995 through 1998) when an immobilizer was not offered as standard equipment is 5.3574, which is significantly higher than the 1990/1991 median theft rate. Chrysler indicated that, since the introduction of immobilizer systems as standard equipment on the Jeep Grand Cherokee vehicles, the average theft rate for the MY 1999 through 2004 is 2.6713, which is significantly lower than the 1990/1991 median theft rate of 3.5826. The Jeep Grand Cherokee vehicles were granted an exemption from the parts marking requirements beginning with MY 2004 vehicles.

On the basis of this comparison, Chrysler has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the information Chrysler has provided about its device, the agency concludes that the antitheft device for the Jeep Wrangler vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Chrysler has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Chrysler provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Chrysler's petition for an exemption for the MY 2009 Jeep Wrangler vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Chrysler decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Chrysler wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: October 31, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–21756 Filed 11–5–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–204 (Sub–No. 2X)]

Cape Fear Railways, Inc.—Abandonment Exemption—in Cumberland County, NC

Cape Fear Railways, Inc. (CF), has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 4.9-mile rail line, referred to as the Skibo-Fort Bragg line, from Skibo to the southern border of the Fort Bragg line, also known as the Skibo A&R line, in Cumberland County, NC. The line traverses United States Postal Service Zip Code 28301.

CF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 6, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 16, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 26, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CF's representative: Evelyn M. Suarez and Williams Mullen, A Professional Corporation, 1666 K Street, NW., Suite 1200, Washington, DC 20006.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CF has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 9, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CF's filing of a notice of consummation by November 6, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: October 29, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–21708 Filed 11–5–07; 8:45 am]

BILLING CODE 4915–01–P

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Tax on Certain Imported Substances (Synthetic Linear Fatty Alcohols); Notice of Determinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, 1989–1 C.B. 717, that the list of taxable substances in section 4672(a)(3) will be modified to include synthetic linear fatty alcohols and synthetic linear fatty alcohol ethoxylates.

DATES: *Effective Dates:* This modification is effective as of July 1, 1993, for synthetic linear fatty alcohols and October 1, 1993, for synthetic linear fatty alcohol ethoxylates.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh, Office of Associate Chief Counsel (Passthroughs and Special Industries), 202–622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether the substance should be listed as a taxable substance. The Secretary shall add the substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce the substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1969–1 C.B. 717, sets forth the rules relating to the determination process.

Determinations

On October 19, 2007, the Secretary determined that synthetic linear fatty alcohols and synthetic linear fatty alcohol ethoxylates should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective as of July 1, 1993, and October 1, 1993, respectively.

The rate of tax prescribed for synthetic linear fatty alcohols will be based on the rate of tax for ethylene ($4.87 per ton) multiplied by the conversion factor for ethylene for the specified synthetic linear fatty alcohol.

The rate of tax prescribed for synthetic linear fatty alcohol ethoxylates will be based on the rate of tax for ethylene ($4.87 per ton) multiplied by the conversion factor for ethylene for the specified synthetic linear fatty alcohol ethoxylate.

The petitioner is Vista Chemical Company, a manufacturer and exporter of these substances. The following information is the basis for the determinations.

Synthetic Linear Fatty Alcohols

Synthetic linear fatty alcohols are derived from the taxable chemical ethylene. They are produced predominantly by the Ziegler process.

The stoichiometric material consumption formula for this substance is: $x(CH_2CH_2)$ (ethylene) + 1/3Al (aluminum) + $1/2H_2$ (hydrogen) + $1/2O_2$ (oxygen) + H_2O (water) → $C_{2x}H_{4x+1}OH$ (synthetic linear fatty alcohols) + $1/3Al(OH)_3$ (aluminum hydroxide).

Synthetic linear fatty alcohols have been has been determined to be taxable substances because a review of the stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 50 percent by weight of the materials used in its production.

Synthetic Linear Fatty Alcohol Ethoxylates

Synthetic linear fatty alcohol ethoxylates are predominately produced by base catalyzed ethoxylation of synthetic linear alcohols with ethylene oxide.

The stoichiometric material consumption formula for this substance is: $x(CH_2CH_2$ (ethylene) + 1/3Al (aluminum) + $1/2H_2$ (hydrogen) + $1/2O_2$ (oxygen) + H_2O (water) + $y(CH_2CH_2)$ (ethylene) + $y/2O_2$ (oxygen) → $C_{2x}H_{4x+1}O(CH_2CH_2O)_yH$ (synthetic linear fatty alcohol ethoxylates) + $1/3Al(OH)_3$ (aluminum hydroxide).

Synthetic linear fatty alcohol ethoxylates have been has been determined to be taxable substances because a review of the stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute at least 50 percent by weight of the materials used in its production.

Frank Boland,

Chief, Branch 7, Office of Associate Chief Counsel (Passthroughs & Special Industries).

[FR Doc. E7–21754 Filed 11–5–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Commissioner of Internal Revenue; Renewal of Charter

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Charter for the Internal Revenue Service Advisory Council (IRSAC) will renew for a two-year period beginning November 2, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Wilds, National Public Liaison, 202–622–6440 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given under section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), and with the approval of the Secretary of the Treasury to announce the renewal of the Internal Revenue Service Advisory Council (IRSAC). The primary purpose of the Advisory Council is to provide an organized public forum for senior Internal Revenue Service executives and representatives of the public to discuss relevant tax administration issues. As an advisory body designed to focus on broad policy matters, the IRSAC reviews existing tax policy and/or makes recommendations with respect to emerging tax administration issues. The IRSAC suggests operational improvements, offers constructive observations regarding current or proposed IRS policies, programs, and procedures, and suggest improvements with respect to issues having substantive effect on federal tax administration. Conveying the public's perception of IRS activities to Internal Revenue Service executives, the IRSAC is comprised of individuals who bring substantial, disparate experience and diverse backgrounds. Membership is balanced to include representation from the taxpaying public, the tax professional community, small and large businesses, state tax administration, and the payroll community.

Dated: October 26, 2007.

Chris Neighbor,

Branch Chief, National Public Liaison.

[FR Doc. E7–21703 Filed 11–5–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Information Reporting Program Advisory Committee; Renewal of Charter

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Charter for the Information Reporting Program Advisory Committee will renew for a two-year period beginning November 2, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Caryl Grant, National Public Liaison, 202–927–3641 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given under section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), and with the approval of the Secretary of the Treasury to announce the renewal of the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of the Advisory Committee is to provide an organized public forum for discussion of relevant information reporting issues of mutual concern as between Internal Revenue Service (''IRS'') officials and representatives of the public. Advisory committee members convey the public's perception of IRS activities, advise with respect to specific information reporting administration issues, provide constructive observations regarding current or proposed IRS policies, programs, and procedures, and propose significant improvements in information reporting operations and the Information Reporting Program. Members are comprised of a diverse group of dedicated and talented professionals who bring substantial disparate experience and backgrounds to the Committee activities. Membership is balanced to include representation from the taxpaying public, the tax professional community, small and large businesses, state tax administrators, academics, preparers, and the payroll community.

Dated: October 30, 2007.

Cynthia A. Vanderpool,

Branch Chief, National Public Liaison.

[FR Doc. E7–21764 Filed 11–5–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0095]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 6, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0095'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0095.''

SUPPLEMENTARY INFORMATION:

Title: Pension Claim Questionnaire for Farm Income, VA Form 21–4165.

OMB Control Number: 2900–0095.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4165 is used to gather information necessary to determine a claimant's countable annual income and available assets due to farm operations. Farm income is not necessarily received on a weekly or monthly basis, and farm operating expenses must be considered in determining a claimant's eligibility to income-based benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 22, 2007, at page 47128.

Affected Public: Individuals or households, and farms.

Estimated Annual Burden: 1,038 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 2,075.

Dated: October 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–21770 Filed 11–5–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0080]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 6, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0080'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0080.''

SUPPLEMENTARY INFORMATION:

Titles

a. Claim for Payment of Cost of Unauthorized Medical Services, VA Form 10–583.

b. Funeral Arrangements Form for Disposition of Remains of the Deceased, VA Form 10–2065.

c. Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10–2511.

d. Authorization and Invoice for Medical and Hospital Services, VA Form 10–7078.

e. Request for Payment of Beneficiary Travel after the Date of Service.

OMB Control Number: 2900–0080.

Type of Review: Revision of a currently approved collection.

Abstract

a. VA Form 10–583 is used to request payment or reimbursement of the cost of unauthorized non-VA medical services.

b. VA Form 10–2065 is completed by VA personnel during an interview with relatives of the deceased, and to identify the funeral home to which the remains are to be released. The form is also used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the place of burial, and/or when burial is requested in a National Cemetery.

c. VA Form 10–2511 is used to process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

d. VA uses VA Form 10–7078 to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

e. Claimants who request payment for beneficiary travel after the time of service may do so in writing or in person.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 29, 2007 at pages 49758–49759.

Affected Public: Business or other for profit, Individuals or households, and not for profit institutions.

Estimated Total Annual Burden: 30,391 hours.

a. VA Form 10–583—17,188.
b. VA Form 10–2065—2,053.
c. VA Form 10–2511—2,333.
d. VA Form 10–7078—8,400.
e. Request for Payment of Beneficiary Travel after the Date of Service—417.

Estimated Average Burden Per Respondent:

a. VA Form 10–583—15 minutes.
b. VA Form 10–2065—5 minutes.
c. VA Form 10–2511—2 minutes.
d. VA Form 10–7078—2 minutes.
e. Request for Payment of Beneficiary Travel after the Date of Service—1 minute.

Frequency of Response: On occasion.

Estimated Number of Respondents: 440,380.

a. VA Form 10–583—68,750 respondents.
b. VA Form 10–2065—24,630 respondents.
c. VA Form 10–2511—70,000 respondents.
d. VA Form 10–7078—252,000 respondents.
e. Request for Payment of Beneficiary Travel after the Date of Service—25,000.

Dated: October 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–21771 Filed 11–5–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

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 surviving spouse of a veteran eligibility for a VA home loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 7, 2008.

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. 2900–0055'' 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: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA Form 26–1817.

OMB Control Number: 2900–0055.

Type of Review: Extension of a currently approved collection.

Abstract: Unmarried surviving spouse of a veteran whose death occurred while serving on active duty or was a direct result of service-connected disabilities completes VA Form 26–1817 to request a certificate of eligibility for home loan benefits. VA uses the data collected to verify the veteran's service-connected death and to determine the applicant's eligibility for home loan benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: October 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–21780 Filed 11–5–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0704]

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, 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 a service member's eligibility for participation in a joint DOD/VA Disability Evaluation Board and VA compensation after separation from service.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 7, 2008.

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. 2900–0704'' 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: VA/DOD Joint Disability Evaluation Board Claim, VA Form 21–0819.

OMB Control Number: 2900–0704.

Type of Review: Extension of a currently approved collection.

Abstract: As a result of President Bush's Interagency Task Force on Returning Global War on Terror Heroes, VA and the Department of Defense (DOD) have agreed to develop a joint process in which Global War on Terror (GWOT) service members are evaluated to assign disability ratings, which will be used to determine military retention, level of disability for retirement, and VA disability compensation. VA Form 21–0819 will be used to gather the necessary information to determine the service member's eligibility for participation in a joint DOD/VA Disability Evaluation Board and VA compensation after separation from service.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 14,000.

Dated: October 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–21781 Filed 11–5–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (EVHAMHS)]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Policy, Planning and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Policy, Planning and Preparedness (OPP&P), Department of Veterans Affairs, has submitted the collection of information as abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 6, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control 2900–New (EVHAMHS)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Initiative Coordination Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–New (EVHAMHS)''.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of Veterans Health Administration Mental Health Services.

OMB Control Number: 2900–New (EVHAMHS).

Type of Review: New collection.

Abstract: VA will use the data collected to assess the achievement of Veterans Health Administration program outcomes in the area of mental health services for schizophrenia, bipolar disorder, post-traumatic stress disorder, major depression, and substance use disorders, as well as the implementation and impact of the Mental Health Strategic Plan. The data will assist the VA in determining the type, level, and quality of care provided, and the degree of satisfaction for the five mental health diagnoses across the continuum of care, and, when performance falls short, to develop recommendations for improvements.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 22, 2007, at pages 47127–47128.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 4,109 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 8,218.

Dated: October 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–21783 Filed 11–5–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
November 6, 2007

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Critical Habitat Revised Designation for the Cape Sable Seaside Sparrow; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AV79

Endangered and Threatened Wildlife and Plants; Critical Habitat Revised Designation for the Cape Sable Seaside Sparrow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising the designation of critical habitat for the endangered Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 84,865 acres (ac) (34,344 hectares (ha)) fall within the boundaries of the designation. The critical habitat is located in Miami-Dade County, Florida.

DATES: This rule becomes effective on December 6, 2007.

FOR FURTHER INFORMATION CONTACT: Tylan Dean, South Florida Ecological Services Office (see **ADDRESSES**); telephone 772–562–3909; facsimile 772–562–4288. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 7 days a week and 24 hours a day.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only topics directly relevant to the revised designation of critical habitat in this rule. For more information on the Cape Sable seaside sparrow, please refer to the South Florida Multi-species Recovery Plan, available at the South Florida Ecological Services Web site *http://www.fws.gov/verobeach,* and the proposed rule to designate critical habitat published in the **Federal Register** on October 31, 2006 (71 FR 63980).

Previous Federal Actions

On December 20, 2000, Biodiversity Legal Foundation filed a lawsuit in the U.S. District Court for the District of Columbia alleging that the Service had not complied with the Act by failing to issue a 12-month finding as to how it planned to proceed with the petitioned revision to critical habitat and that the revision was withheld or unreasonably delayed under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). The Court ruled that the Service complied with the Act by issuing the finding and was exercising reasonable discretion in postponing developing a proposed rule to revise critical habitat (*Biodiversity Legal Foundation* v. *Norton,* 285 F. Supp. 2d (D.D.C. 2003)), but ordered the Service to specify a date on which we would begin work on a rule to revise critical habitat for the Cape Sable seaside sparrow and estimate how long the process would take. The Service provided a proposed schedule for revision of critical habitat to the Court, and on December 31, 2003, the Court embodied the Service's proposed timeframe in a Court Order, directing the Service to complete the critical habitat rule no later than October 24, 2007. For more information on previous Federal actions concerning the Cape Sable seaside sparrow, refer to the proposed critical habitat designation published in the **Federal Register** on October 31, 2006 (71 FR 63980), and in our notice of availability of the draft economic analysis of the proposed revised critical habitat published on August 17, 2007 (72 FR 46189).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for the sparrow in the proposed rule published (71 FR 63980), and again in the notice of availability (72 FR 46189). On both occasions, we contacted appropriate Federal, State, and local agencies; Tribal interests; species' experts; and other interested parties and invited them to comment on the proposed rule. One public hearing was held on August 29, 2007, in Homestead, Florida during the second comment period.

During the first comment period that opened on October 31, 2006, and closed on January 2, 2007, we received comments from 16 entities that directly addressed the proposed critical habitat designation: 5 from peer reviewers, 1 from a Tribe, 2 from State and local governmental agencies, and 8 from organizations or individuals. We received 3 requests for a public hearing, all from entities in the Miami-Dade County, Florida, area. During the second comment period that opened on August 17, 2007, and closed on September 17, 2007, including the public hearing, we received comments from 28 entities that directly addressed the proposed critical habitat designation and/or the draft economic analysis: 1 from a peer reviewer, 2 from Federal agencies, 2 from a Tribe, 4 from State and local governmental agencies, and 19 from organizations or individuals. Nine commenters supported the designation of critical habitat for the sparrow and 20 opposed the designation. Fifteen commenters provided suggestions or information, but did not indicate support or opposition to the critical habitat designation. Comments received were grouped into 70 issues specifically relating to the proposed critical habitat designation for the sparrow, and are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we made formal requests for peer reviewers from the Florida Fish and Wildlife Conservation Commission (FWC), the South Florida Water Management District (SFWMD), and the Miccosukee Tribe of Indians of Florida. As a result, we solicited expert opinions from nine knowledgeable individuals with scientific expertise that included sparrow biology, conservation biology, endangered species issues, hydrology, and/or Everglades restoration. We received responses from five of these experts. Four of the peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final critical habitat rule. One of the peer reviewers was not in agreement with our methods or conclusions. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for the sparrow, and addressed them in the following summary.

Peer Reviewer Comments

(1) *Comment:* Critical habitat should include all locations occupied during point count surveys, because specific locations may be contiguous with the larger meta population and subsequently essential to the conservation of the sparrow. Connectivity between occupied locations is extremely important.

Our Response: Critical habitat designation does not include all areas that may be used by sparrows or all areas that are important to sparrows. The units proposed for designation focused on areas that contain physical and biological features in the spatial arrangement and quantity that are essential to the conservation of the sparrow that require special management consideration or protection. Additionally, areas not

known to be occupied by sparrows that may serve to maintain connectivity among disjunct units are not readily identifiable, and we do not currently possess information about the habitat characteristics necessary to support movement by sparrows. Consequently, we cannot make the determination required by the Act to designate unoccupied habitat, that the area is essential to the conversation of the species. Therefore, such areas are not designated as critical habitat. See ''Critical Habitat'' section below for additional information on the methods and criteria for designating critical habitat and the regulatory protections for areas designated as critical habitat, as well as areas outside of the designation that may be important to the species.

(2) *Comment:* Specific information on what constitutes a typical sparrow territory within the marl prairie habitat type and a broad mention (based on Werner (1975) and Pimm *et al.* 2002) of the special foraging microhabitat patch-type used by Cape Sable seaside sparrows should be included along with comments on nest sites.

Our Response: We agree that specific information on what constitutes a ''typical'' territory, or information on detailed microhabitat characteristics of foraging or nesting sites, is not discussed in detail. While these characteristics may be important to sparrows, we do not think the information presented in the publications referenced has been sufficiently confirmed across the full breadth of area, habitats, and conditions occupied by sparrows to allow us to characterize these features adequately. We instead chose to describe the habitat on a broader, more general level while discussing the functions the habitat must provide (e.g., structural support for nests, cover and refugia from predators, foraging substrate under a variety of hydrologic conditions).

(3) *Comment:* Designating Unit 1 as critical habitat is crucial and well-justified to protect what historically was a major subpopulation (A) of the Cape Sable seaside sparrow, the restoration of which recent analyses suggest is essential to recovery.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have found that the benefits of excluding proposed Unit 1 outweigh the benefits of inclusion and that such exclusion will not result in the extinction of the species. Therefore, we have excluded Unit 1 from critical habitat. See ''Application of section (4)(b)(2) of the Act'' below for further explanation.

(4) *Comment:* Unit 2 should be included in the designation as it provides the only area of what historic evidence suggests was an important habitat type for the Cape Sable seaside sparrow.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have found that the benefits of excluding Unit 2 outweigh the benefits of inclusion and that such exclusion will not result in the extinction of the species. Therefore, we have excluded Unit 2 from critical habitat. See ''Application of section (4)(b)(2) of the Act'' below for further explanation.

(5) *Comment:* Cordgrass marshes should be designated as critical habitat to protect them for possible future reestablishment of sparrow populations.

Our Response: There are two areas within the range of the Cape Sable seaside sparrow (Cape Sable and Ochopee) that contain cordgrass that are no longer occupied by sparrows. The first area is the sparrow habitat in Cape Sable which has been changing significantly from cordgrass marshes to mangroves and mud flats since a 1935 hurricane, and sparrows are considered to have been extirpated from this area since 1981 (Kushlan and Bass 1983, p. 142). The second area is Ochopee, for which Werner (1975, p. 42) reported that habitat occupied by sparrows was changing from cordgrass marshes to other species, and mangroves were encroaching. Sparrows were extirpated from this area by 1981 (Kushlan and Bass 1983, p. 143), and there is little or no remaining suitable habitat in the area.

The Act provides for designating areas that are occupied at the time of listing that contain those physical and biological features essential to the conservation of the species. The Act also provides for designating areas that are unoccupied at the time of listing when such areas are essential for the conservation of a listed species. For the sparrow, an area was considered for designation as critical habitat when it supports some portion of a subpopulation and meets either of the following criteria: (1) Possesses one or more of the primary constituent elements (PCEs) and was occupied at the time of listing by sparrows, or (2) is determined to be currently occupied by the Cape Sable seaside sparrow through annual surveys conducted during the period 1981 to present. Those areas where sparrows were recorded from 1981 to present represent the areas that we have determined were occupied at the time of listing of the species. We considered designating units for the sparrow where it is entirely extirpated from those units and determined that doing so is not essential for its conservation.

(6) *Comment:* Where are the 100,000 acres that are proposed to be eliminated from critical habitat and what is the justification for their removal?

Our Response: The revised critical habitat is not based on the previous designation, and all areas of potential sparrow habitat were considered equally when developing this final designation. The critical habitat boundaries in the 1977 designation were based on section-township-range boundaries, and only delineated relatively large, general areas within which sparrows were known to occur at that time. Consequently, many areas originally designated were never Cape Sable seaside sparrow habitat, such as forested areas of Long Pine Key in Everglades National Park, dwarf cypress forests (also Everglades National Park), deep water slough communities, and agricultural areas. These areas, therefore, are not being proposed for inclusion in the revised critical habitat designation, and we have instead sought to accurately delineate only the specific areas that were important to sparrows in the proposed revision. Differences may be reviewed by comparing the boundaries identified in this rule and in the 1977 (42 FR 47840) rule, and a general discussion of the differences is provided in the section titled ''Critical Habitat Designation,'' below.

(7) *Comment:* Several commentors were either for or against the decision to include National Park Service (NPS) and State lands as critical habitat.

Our Response: We are designating critical habitat on NPS and State lands because these areas are within the geographical area occupied at the time of listing that contains the features essential to the conservation of the sparrow and, which may require special management considerations or protections. We excluded in this final decision two proposed units within NPS lands (Everglades National Park (ENP) and Big Cypress National Preserve (BCNP)), but other units within ENP remain in the final designation.

(8) *Comment:* The conclusion that the designation will have no impact on Tribal lands, since none are included as critical habitat, can be questioned, given the inter-connectedness of land units with the Greater Everglades Ecosystem.

Our Response: In the final rule, we considered potential direct and indirect impacts to Tribal lands and resources that might result from designation of critical habitat when weighing the benefits of exclusion and inclusion in the ''Application of Section 4(b)(2) of

the Act'' section below. In addition, potential impacts to Tribal resources were described and considered in the economic analysis associated with the critical habitat designation.

(9) *Comment:* Designation of Units 1 and 2 as critical habitat would sanction artificial drying of areas in ENP and flooding of other areas of the Everglades in perpetuity resulting in destruction of the largest expanse of sawgrass Everglades in existence in direct contravention to the Comprehensive Everglades Restoration Plan (CERP).

Our Response: Upon further evaluation of the proposed critical habitat designation, we have found that the benefits of excluding Units 1 and 2 from this final designation outweigh the benefits of inclusion, see ''Application of section (4)(b)(2) of the Act'' below for further explanation.

(10) *Comment:* The hydrological management PCE (4) is based on a hypothesis that has not been shown to be true.

Our Response: The specific PCEs identified for the Cape Sable seaside sparrow, including PCE4, are derived from the biological needs of the sparrows, as described in the Background and Primary Constituent Elements sections of our proposed rule (71 FR 63980). The PCEs are based on the best scientific data available and their scientific foundation is detailed in this rule and the referenced proposed rule. It should be noted that PCE 4 describes the hydrologic conditions that are required to support and maintain the vegetation composition that sparrows require, as well as those conditions that allow for successful nesting. PCE 4 is used as a basis for the evaluation during consultation under *section 7* of the Act to determine whether a proposed action may result in destruction or adverse modification of designated critical habitat. It is not intended to be a specific objective.

(11) *Comment:* PCE 4 could force the Army Corps of Engineers (USACE) to manage water levels in subpopulation A at unnaturally low levels forever, to the detriment of other areas in the Everglades ecosystem. The conclusion in the proposed rule that ''Water management plans continue to have the potential to result in damage to sparrow habitat in these areas, and special management of hydrologic conditions is necessary'' has no apparent factual or scientific basis, and is reached based on faulty and superficial logic, misrepresentation of the facts, and ignoring the blindingly obvious.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have excluded Units 1 and 2 (subpopulation A) from final designation after determining that the benefits of excluding them from the final designation outweigh the benefits of inclusion (see ''Application of section (4)(b)(2) of the Act'' below). Regarding water management plans and their potential to damage to sparrow habitat, the Service believes this statement is accurate. The hydrologic regime affects sparrows indirectly through its effects on the vegetation community as detailed in this rule. While these effects may be a result of natural rainfall, such effects have also been the result of water management plans.

(12) *Comment:* The proposed rule states that ''From 1993 to 1995, the sparrow population in subpopulation A declined precipitously, from an estimated 2,608 individuals in 1992 to 240 individuals in 1995 (Pimm, *et al.* 2002, p. 70).'' This is contrary to the available evidence in that the precipitous decline occurred between 1992 and 1993 when subpopulation A went from 2,608 to 432 individuals. This information should be revised to reflect the relative certainty and uncertainties that have contributed to the decline, not speculation.

Our Response: Sparrow surveys do indicate that a large decline occurred between the 1992 survey and the 1993 survey. The 1994 survey was incomplete in the area of subpopulation A, and only approximately 25 percent of the area was surveyed. Consequently, the number of sparrows counted in 1994 should not be used to characterize population changes. In addition, the estimates of sparrow numbers resulting from the point counts are recognized as incorporating a significant degree of uncertainty (see Pimm *et al.* 2002, pp. 151–160). As a result of the uncertainty in individual estimates, we chose to refer to sparrow population changes across several years, which we believe are more representative of sparrow population trends.

(13) *Comment:* There is no scientific justification presented that the decline in subpopulation A resulted from the hydrologic flow regime, and, even if there was an abnormal increase in flows, which there was not, it is impossible to imagine an 84 percent drop in the population in one year because of increased flows alone. The decline is much more likely attributable to a sudden event such as a fire or hurricane.

Our Response: We recognize that we will not be able to ever conclusively determine the cause for the observed decline of sparrow subpopulation A. However, the specific attribution for the observed decline has been the subject of several peer-reviewed journal articles as well as independent scientific review. In their 2000 review of sparrow science, Walters *et al.* (2000, p. 1104) indicated that ''the panel views as reasonable Nott *et al.*'s (1998) conclusion that the concentrated releases of water from the S–12 structures from 1992 to 1995, above and beyond existing water depth and seasonal rainfall, directly led to the deep-water conditions west of Shark River Slough. These in turn probably caused habitat in the range of Population A to be unsuitable for breeding, and we conclude that this likely played a major role in the apparent decline of Population A.'' The panel further writes that ''The panel explicitly considered the possibility that Hurricane Andrew * * * caused the decline, especially in Population A. However, we find Curnutt *et al.*'s (1998) arguments that Andrew was not a primary factor in the decline of Population A to be reasonable. Most importantly, Population A continued to decline for years after Andrew, whereas Population B received only slightly less extreme wind conditions than did Population A, but exhibited no decline.'' The Service echoes the uncertainty inherent in their assessment, but supports their conclusions. We are not aware of additional information presented since 2000 that refutes their conclusions.

(14) *Comment:* Comprehensive Everglades Restoration Plan is not considered in the proposed rule nor is it disclosed that the PCEs require unnatural conditions.

Our Response: The proposed and final rules include discussions of activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by designation of critical habitat. As such we do not discuss specific projects such as CERP. However, CERP is addressed in this final rule in our discussion of exclusions pursuant to section (4)(b)(2) of the Act, which was not in the proposed rule. Designation of critical habitat is a rulemaking procedure, and as such, does not consider or accommodate future plans as we are required to make our determination on the best information available to us at the time of our decision. The Service believes that the PCEs will be maintained by natural conditions. The PCEs of Cape Sable seaside sparrow critical habitat are derived from the biological needs of the sparrows, as described in the Background and Primary Constituent Elements sections of our proposed rule (71 FR 63980). The PCEs are based on the best scientific data available and their scientific

foundation is detailed in this rule and the referenced proposed rule.

(15) *Comment:* If the proposed rule is finalized as proposed, it will make manmade structures and associated unnatural management of water essential in perpetuity. It is impossible for any person or agency to achieve PCE 4 short of totally isolating the area with a wall and constructing an engineered plumbing system; man-made controls will, in all probability, have to be increased given PCE 4 as proposed.

Our Response: The critical habitat designation does not require implementation of specific management measures, and favorable conditions may be achieved through a variety of means. We have modified PCE 4 to incorporate a broader array of environmental conditions that may occur under natural conditions. We do not intend or expect that PCE 4 will require intensive management of hydrology. This PCE is based on the best available science, and was derived from water levels that have been recorded within sparrow habitats throughout their range over the past 50 years. We do not think these conditions have resulted exclusively from isolating these areas.

(16) *Comment:* Over 68 percent of the tree island area in the Everglades was destroyed by 1995 primarily due to high water; this destruction will continue by designating critical habitat within subpopulation A based on the prescription of PCE 4.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have excluded Units 1 and 2 (subpopulation A) from final designation after determining that the benefits of excluding them from the final designation outweigh the benefits of inclusion (see ''Application of section (4)(b)(2) of the Act'' below).

(17) *Comment:* Designating critical habitat within subpopulation A is not scientifically justified, and with precise, artificial water management mandates, is inconsistent with the principle of multi-species recovery and ecosystem restoration.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have excluded Units 1 and 2 (subpopulation A) from final designation after determining that the benefits of excluding them from the final designation outweigh the benefits of inclusion (see ''Application of section (4)(b)(2) of the Act'' below).

(18) *Comment:* The proposed rule, with prescribed unnatural hydrological management mandates, will adversely impact the Everglades, the sparrow, and other endangered species by preventing the restoration of natural flows and levels and the full implementation of CERP.

Our Response: We recognize some habitats currently occupied by sparrows, particularly in the vicinity of sparrow subpopulation A, may have been wetter historically than they are presently, and conditions may become wetter in some portions of this area under restoration. This was a consideration in our decision to exclude these areas from the designation. The critical habitat designation does not prescribe unnatural hydrological management mandates. It identifies a single hydrologic characteristic that is consistent with the occurrence of sparrows in the Everglades wetlands and is based on the best available information. This condition will be used to evaluate potential effects of Federal actions on designated critical habitat.

Comments From States

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' Comments received from States regarding the proposal to designate critical habitat for the sparrow are addressed below.

(19) *Comment:* Units 1 and 2 should not be designated as critical habitat.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have found that the benefits of excluding units 1 and 2 (subpopulation A) from this final designation outweigh the benefits of inclusion, see ''Application of section (4)(b)(2) of the Act'' below for further explanation.

(20) *Comment:* The proposed designation will detrimentally affect the abilities of the South Florida Water Management District to effectively operate the Central & Southern Florida system; will prevent the State from achieving the Minimum Flow and Level for Shark River Slough; and fails to consider SFWMD's responsibilities for flood protection, agriculture, and the urban environment.

Our Response: The Service's exclusion of critical habitat in the area of subpopulation A is expected to reduce potential impacts to water management options, including Everglades restoration. One of the purposes of designating critical habitat is to evaluate the potential impact of proposed Federal actions on habitats that support sparrows. Individual proposals will be evaluated to determine whether they will result in destruction or adverse modification of critical habitat, and such proposals will require modification to avoid impacting areas that contain the features that are essential for the conservation of the sparrow.

(21) *Comment:* The designation will directly impact the SFWMD's ability to operate the features constructed by the State's Acceler8 program and fails to evaluate the impacts on the Foundation Projects, CERP, and Acceler8. The Service's narrow focus on the sparrow contradicts CERP and restricts water flow to Everglades National Park.

Our Response: The exclusion of critical habitat from the area of subpopulation A is expected to reduce or eliminate potential conflicts between hydrologic restoration efforts, including CERP, and the designated critical habitat. We do not believe that any CERP components, as currently planned, will be incompatible with the designation. However, there are components of CERP that have not been planned sufficiently to date to allow evaluation and determination of whether they will be completely compatible with the designated critical habitat, and we expect CERP project designs to continue to change in the future. In the Adverse Modification Standard section of this final rule we discuss activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and, therefore, result in consultation for the sparrow. However, this does not mean that those activities cannot go forward as planned or proceed with some project modifications.

(22) *Comment:* An Avian Ecology Workshop was held in August 2007, the initial advice and recommendations from the avian ecology experts who participated in the workshop will be available in December 2007. Given the imminent release of this information, the Service is failing to consider the best scientific data available.

Our Response: On June 14, 2007, the Service filed a motion with the U.S. District Court for the District of Columbia to extend the deadline to complete critical habitat until December 15, 2008. The motion was based in part on waiting for the results of the Avian Ecology Workshop. On July 18, 2007, our request for an extension was denied by the Court. As a result, the Service must complete the final critical habitat rule by October 24, 2007, using the best scientific information available.

The Service participated in the avian ecology workshop, and incorporated and considered scientific and technical information into the final rule that was presented at the workshop and provided in subsequent technical reports from scientists who gave presentations at the

workshop. This information included recent results on sparrow population status and habitat, such as that cited in the final rule as Sah *et al.* 2007, and Pimm *et al.* 2007.

(23) *Comment:* Are roadway rights-of-ways part of designated critical habitat? Clarify if an excepted area should be excluded based solely on containing one of the PCEs. The units should acknowledge and accommodate the existing roads and canals.

Our Response: In developing our final designation, we attempted to avoid including developed areas such as buildings, paved areas, and other structures that lack PCEs for the sparrow on the boundaries of the designation. However, the scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. As is our normal practice, any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this rule have been excluded by text in the rule and are not designated as critical habitat. Federal actions within such areas would not trigger consultation under section 7 *of the Act*, unless they affect the species or PCEs in adjacent critical habitat. The areas outside of this designation do not include buffers around such features, and impacts to habitat immediately adjacent to roads, buildings, canals, and similar features must be considered during consultation if federally funded maintenance and development actions affect designated areas.

(24) *Comment:* Critical habitat designation must include other Federal and State listed species. The current direction of the Service to protect a single species to the detriment of other listed and non-listed species is of concern.

Our Response: Under the Act and its implementing regulations, there are no mechanisms associated with the proposed designation of critical habitat that consider addressing or accommodating other species besides the species for which critical habitat is designated. In accordance with section 3(5)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we consider the specific occupied areas that contain PCEs, and specific unoccupied areas that are essential for the conservation of the species for which we are designating critical habitat. However, we are able to consider most other species as well as other environmental concerns in our analysis of exclusions from critical habitat pursuant to section 4(b)(2). In fact, our decision to exclude proposed Units 1 and 2 in the final rule includes consideration of such concerns. Other listed or sensitive species may also be afforded some conservation and protection, if they occur within the areas designated as critical habitat or share habitat components of the Cape Sable seaside sparrow.

(25) *Comment:* The Service should examine the hydrologic data collected in Units 1, 2, and 5 over the last 10 years to determine the feasibility of attaining PCE 4 in these particular areas.

Our Response: We have examined hydrologic records for the period of record for data sets across all areas occupied by sparrows. We have excluded proposed critical habitat Units 1 and 2, which correspond with sparrow subpopulation A, from the final designation (see ''Application of Section (4)(b)(2) of the Act'' below). Further, we have clarified PCE 4 to provide for a degree of environmental variability observed in these data sets. We have determined that attaining this modified PCE 4 is feasible in the other units.

(26) *Comment:* We should clarify how PCE 4 would be applied and interpreted in areas that are expansive and have ground elevations that vary by several feet.

Our Response: There are numerous hydrological monitoring stations across the Everglades, including some that are in or adjacent to areas designated as critical habitat. These monitoring stations provide detailed information about the hydrological conditions in the areas near the gauges over the past decades. Obtaining information about the water levels and/or ground elevations at specific locations within critical habitat will allow estimation of the hydrologic conditions that have occurred over time by relating the conditions at the specific site to nearby hydrologic gauges. In addition, existing hydrologic models provide projections of water depths across the landscape. While these depths are understood to be generalized across relatively large spatial scales, they provide estimates of changes in water depths and the duration of specific water levels. These models can be used to evaluate whether proposed projects that are expected to alter hydrologic conditions may affect the occurrence of hydrological conditions described in PCE 4. In evaluating proposed projects that may affect hydrological conditions within critical habitat, the best available information, such as hydrological models or measured water depths and ground elevations, in combination with data from water monitoring stations, will be used to make a determination of whether the proposed project may result in hydrologic conditions consistent with the PCE. The specific information evaluated to make this assessment may vary depending on the location of the anticipated effects relative to nearby hydrologic monitoring sites, the availability of hydrologic modeling, and other factors.

(27) *Comment:* The addition of a PCE describing an appropriate fire regime, perhaps based on soil depth characteristic, would strengthen the designation.

Our Response: We agree, and considered including a PCE related to fire. However, there is currently insufficient scientific information available to identify the appropriate fire frequency and seasonality necessary to maintain the characteristics of sparrow habitat that are essential to the conservation of the sparrow. We are supporting ongoing research to assist in addressing this question, but information is currently lacking.

Public Comments

(28) *Comment:* Units 1 and 2 should not be designated as critical habitat.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have excluded Units 1 and 2 (subpopulation A) from final designation after determining that the benefits of excluding them from the final designation outweigh the benefits of inclusion (see ''Application of section (4)(b)(2) of the Act'' below).

(29) *Comment:* Units 3 through 7 should be designated as critical habitat.

Our Response: We agree and have included these areas in the final designation. However, since proposed Units 1 and 2 have been excluded from the final designation, we have renumbered the units so that proposed Units 3 through 7 are now identified as Units 1 through 5 in this final designation.

(30) *Comment:* It must be made clear if there are any portions of CERP that cannot go forward. The Service's narrow focus on the sparrow contradicts CERP and restricts water flow to ENP.

Our Response: The exclusion of critical habitat from the area of subpopulation A is expected to reduce or eliminate potential conflicts between hydrologic restoration efforts, including CERP, and the designated critical habitat. We do not believe that any CERP components, as currently planned, will be incompatible with the designation. However, there are components of CERP that have not been planned sufficiently to date to allow evaluation and determination of whether they will be completely

compatible with the designated critical habitat, and we expect CERP project designs to continue to change in the future. In this final rule under the Adverse Modification Standard section we discuss activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the sparrow. However, this does not mean that those activities cannot go forward as planned or proceed with some project modifications.

(31) *Comment:* Consideration of the cumulative and long-term effects of PCE 4 for Unit 1 on other avian species of concern has not been presented.

Our Response: Upon further evaluation of the proposed critical habitat designation, we have found that the benefits of excluding Unit 1 from this final designation outweigh the benefits of inclusion, see ''Application of section (4)(b)(2) of the Act'' below for further explanation.

(32) *Comment:* The PCEs need further clarification by unit and the methods by which the effects from rainfall and surface flows from surrounding natural areas were distinguished from C&SF projects operations needs further clarification.

Our Response: The PCEs are derived from the biological needs of the sparrows, as described in the Background and Primary Constituent Elements sections of our proposed rule (71 FR 63980) and this final rule. The PCEs are based on the best scientific data available and their scientific foundation is detailed in this rule and the referenced proposed rule. Further, critical habitat units are delineated based on the presence of one or more of the PCEs. They were not developed in reference to past, current, or future operations of the C&SF project. The effects of future projects will be evaluated using the best available information to predict whether they will occur. The specific information available to make this determination may vary among projects.

(33) *Comment:* There is no reference as to how and where water levels exceeding 7.9 inches (20 cm) (i.e., PCE 4) would be measured for each proposed critical habitat unit.

Our Response: Measurements of water levels that relate to this PCE can be made in any location to determine whether that PCE is present at a site. In the absence of site-specific information, the best available information should be used to determine whether the PCE is present. In evaluating future projects, PCE 4, as well as the other PCEs, will be evaluated using the best available information to determine which ones are present and how they will be affected by the proposed project. The specific information available to make this determination may vary among projects, and the locations and extent of measurement will need to be determined based on the specific considerations of individual projects. The PCEs identified are those that are important to sparrows in general, and are not relevant to individual or specific units. The PCEs are derived from the biological needs of the sparrows, as described in the Background and Primary Constituent Elements sections of our proposed rule (71 FR 63980). The PCEs are based on the best scientific data available and their scientific foundation is detailed in this rule and the referenced proposed rule.

(34) *Comment:* One commentor suggested that we lengthen the duration for PCE 4 in the breeding season and include hydrologic triggers for the non-breeding season.

Our Response: We considered a broad variety of hydrologic characteristics in developing PCE 4, and we revised this PCE in the final rule (see the Primary Constituent Elements section below). The PCE that we identified is based on the best available science and detailed inspection of hydrological and meteorological data. Lengthening the period of evaluation may emphasize hydrologic characteristics that would provide better nesting habitat for sparrows, but they would not be consistent with natural hydrological and meteorological patterns and conditions. Hydrologic triggers during the non-breeding season may also be desirable, but we do not currently have detailed data on hydrological conditions and their specific effects on sparrow habitat during the non-breeding season. Consequently, we do not have sufficient information to define such a PCE and establish that it represents a feature that is essential to the conservation of the sparrow.

(35) *Comment:* Options such as mechanical vegetation control, construction of levees and pumps to protect habitat, and restoration of formerly occupied habitat have not been included or considered in the analyses.

Our Response: Such actions, while they may be important to managing and restoring sparrow habitat, are not addressed in the rule because critical habitat designation does not prescribe specific actions, and only establishes a baseline condition to allow evaluation of potential impacts resulting from future Federal actions. Other mechanisms, such as recovery plans and section 7 of the Act, provide for consideration of such actions.

(36) *Comment:* The proposed rule is not based on the best scientific data available.

Our Response: The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. For this rule, we reviewed all available published and unpublished literature about the ecology of the sparrow, including the 1999 petition, the revised recovery plan (Service 1999a), and the previous recovery plan (Service 1983) (See ''Criteria Used to Identify Critical Habitat'' section). We evaluated management plans that address specific management needs of sparrows and their habitats and past section 7 consultations that addressed the needs of the sparrow. We reviewed reports received from section 7 consultations and from researchers who hold section 10(a)(1)(A) research permits. We reviewed past records of sparrow occurrence, distribution, and habitat use over time that were compiled by FWC personnel, NPS personnel, and independent researchers. We obtained and analyzed spatial information on the location of sparrow occurrences recorded on surveys from 1981 to present and spatial data that reflect vegetation type, fire history, and hydrologic conditions within these areas. We reviewed information resulting from hydrologic modeling of several water management regimes implemented in the region. We evaluated the conclusions and recommendations that resulted from an independent peer review of the science related to sparrows and their management conducted by the American Ornithologists' Union in 1999 (Walters et al. 2000), and the recommendations and conclusions of the 2003 South Florida Ecosystem Restoration Multi-species Avian Workshop (SEI 2003). We have also reviewed available information on the habitat requirements of this species. In determining PCEs, we reviewed all available published and unpublished literature on the ecology, habitat needs, and factors limiting the sparrow's

occurrence and distribution, including information in published, peer-reviewed journal articles; unpublished reports and theses; and preliminary results from ongoing research. The original critical habitat designation (August 11, 1977, 42 FR 40685; corrected September 22, 1977, 42 FR 47840) was evaluated thoroughly during our analysis. As such, we believe that this final designation is based on the best available scientific information available.

(37) *Comment:* The Service did not conduct the National Environmental Policy Act analysis necessary to determine the environmental impacts of this major Federal action.

Our Response: It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to NEPA in connection with designating critical habitat pursuant to the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position has been upheld by the U.S. Court of Appeals for the Ninth Circuit (see, *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 516 U.S. 1042 (1996)).

(38) *Comment:* The Service failed to abide by Secretarial Order 3206, Executive Order 13175 and Departmental Manual 512, Chapter 2 in completing its Trust duty to conduct meaningful, pre-decisional consultation with the Miccosukee Tribe of Indians on this action.

Our Response: 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. In accordance with Secretarial Order 3206 of June 5, 1997, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,'' we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. Accordingly, we provided verbal notification to the Tribe's representative in advance of publication of the proposed rule on October 26, 2006. Shortly after publication, the Service followed up with a letter dated November 7, 2006, requesting comments from the Tribe and offering our availability to answer questions and meet with the Tribe. The Service requested and received recommendations for peer reviewers from the Tribe and a Tribal representative was asked to peer review the proposed rule. Subsequent to the publication of the proposed rule we responded to numerous email and telephone requests from the Tribe's representative. In advance of the publication of the notice of availability in August 2007, we provided verbal, email, and written notification to the Tribe, and provided advanced verbal notification as to the date, time, and location of the public hearing. In our advanced written notification to the Tribal Chairman, we requested comments from the Tribe and offered our availability to answer questions and meet. Since October 2006, we have corresponded with the Tribe or its representative regarding this issue on more than 30 occasions.

(39) *Comment:* The Service's contention that it anticipates no impacts to Tribal lands is disingenuous and inaccurate.

Our Response: In the final rule, we considered potential direct and indirect impacts to Tribal lands and resources that might result from designation of critical habitat when weighing the benefits of exclusion and inclusion in the ''Application of Section 4(b)(2) of the Act'' section below. In addition, potential impacts to Tribal resources were described and considered in the economic analysis associated with the critical habitat designation

(40) *Comment:* The Service is not legally obligated to designate the western area of ENP as critical habitat because the sparrow is protected under the Act and ENP is a protected area. Moreover, the Service has no obligation to adopt a rule that contains a hydrologic management objective.

Our Response: While the existing management plans for NPS and State lands include provisions and actions intended to maintain the habitat type upon which sparrows depend, the existing plans do not provide sufficient assurances that hydrologic management in these areas will maintain sparrow habitat for the foreseeable future. Neither the NPS nor the Florida Fish and Wildlife Conservation Commission directly manage the hydrologic conditions on their properties. Inflows into the properties, as well as adjacent hydrologic conditions that affect the lands through groundwater seepage, are regulated by other Federal and State agencies. As such, we are designating critical habitat on NPS and State lands. However, upon further evaluation of the proposed critical habitat designation, we have excluded Units 1 and 2 (subpopulation A) from final designation after determining that the benefits of excluding them from the final designation outweigh the benefits of inclusion (see ''Application of section (4)(b)(2) of the Act'' below). The specific PCEs, including PCE 4 (hydrologic condition), identified for the Cape Sable seaside sparrow are derived from the biological needs of the sparrows, as described in the Background and Primary Constituent Elements sections of our proposed rule published on October 31, 2006 (71 FR 63980). The PCEs are based on the best scientific data available and their scientific foundation is detailed in this rule and the referenced proposed rule.

(41) *Comment:* The peer review process was flawed in that the scientists were only given a short time to review the proposed rule and were not provided with all the ''science'' documents on which the Service claims it was based.

Our Response: Eight of the peer reviewers were sent a letter on November 2, 2006, requesting that they complete their review and provide their comments by January 2, 2007. One peer reviewer was sent a letter on November 14, 2006, requesting their review and comments by January 2, 2007. In other words, most reviewers were provided approximately 60 days to review the proposal and the information it was based on and provide their comments. This is approximately the same period of time in which the public had to review the proposal and the time period required by our ESA regulations for public comment. Moreover, the letter sent to all nine reviewers indicated that the literature used to prepare the proposed rule was available upon request.

(42) *Comment:* Management of water levels is not within the Service's jurisdiction and, thus, the hydrologic management objective is in excess of statutory authority.

Our Response: The final rule does not prescribe specific water management regimes or water levels, and only describes a hydrologic characteristic that allows for the conservation of the species. Potential impacts of future Federal actions on the hydrologic conditions within designated critical habitat will be evaluated at the time of the action in accordance with section 7 of the Act.

(43) *Comment:* The proposed rule violates the 5th Amendment of the U.S. Constitution (*i.e.*, the taking of private property).

Our Response: The mere promulgation of a regulation, like the enactment of a statute, does not take private property unless the regulation on its face denies the property owners all economically beneficial or productive use to their land (*Agins* v. *City of Tiburon,* 447 U.S. 255, 260–263 (1980); *Hodel* v. *Virginia Surface Minin and Reclamation Ass'n,* 452 U.S. 264, 195 (1981); *Lucas* v. *South Carolina Coastal Council,* 505 U.S. 1003, 1014 (1992)). The Act does not restrict all uses of critical habitat, but only imposes limits under section 7(a)(2) on Federal agency actions that may result in destruction or adverse modification of designated critical habitat. This limitation does not apply to private actions that do not need Federal approvals, permits, or funding. Furthermore, if a biological opinion concludes that a proposed action is likely to result in destruction or adverse modification of critical habitat, we are required to suggest reasonable and prudent alternatives, if we are able to develop such alternatives. In accordance with Executive Order 12630, we have concluded that this designation does not have significant takings implications (see ''Required Determinations'' section below).

(44) *Comment:* The Service needs to state whether the rule will or will not impact access or human use in Units 1 and 2 other than during the natural sparrow nesting season.

Our Response: Units 1 and 2 have been excluded from this designation and, therefore, critical habitat is no longer a consideration. However, the areas that were considered in the proposed rule for designation as Units 1 and 2 (subpopulation A) contain sparrows and 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 determined on the basis of the best available information at the time of the proposed action.

(45) *Comment:* Under the proposed critical habitat designation how will the sparrow have the necessary habitat to substantially increase the population to 6,600 birds? There should be a discussion of total available habitat contrasted with critical habitat as well as how restoration of habitat can fit in with critical habitat strategies to attain the recovery goals.

Our Response: Recovery of sparrows is expected to occur both within and outside of designated critical habitat, and the designation is consequently not intended to encompass all areas where sparrows may occur. There are areas outside of designated sparrow critical habitat that may currently be able to support sparrows, and additional areas where habitat may be restored through management or Everglades restoration efforts. Habitat is often dynamic, and species may move from one area to another over time. Consequently, it is difficult to accurately estimate the amount of suitable habitat that is available at a particular point in time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. We expect that some additional areas may become suitable for sparrows as Everglades restoration progresses. However, we have made the designations in this final rule consistent with the best available scientific information and are currently unable to predict the specific location or extent of such other areas. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

(46) *Comment:* In the discussion of the individual units, specific threats should be identified such as global warming or climate change, off-road vehicle use in Big Cypress National Preserve, exotic predators such as the Burmese python.

Our Response: Global warming and climate change may threaten all units, although the precise impacts over time are not fully understood. Proposed Units 1 and 2, which were the only units in BCNP, have been excluded for the reasons described later in this rule. Exotic predators, similar to climate change, is a general threat that may affect all units, and the degree to which this potential threat may affect sparrows remains unknown. In our descriptions of specific units, we only addressed the main factors affecting sparrow habitat within the unit that may require special management consideration or protection.

(47) *Comment:* How will critical habitat be effectively monitored and enforced?

Our Response: Under the Act, critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that may affect critical habitat (see ''Section 7 Consultation'' section below). There are no special provisions to actively monitor critical habitat, and any monitoring will be conducted as a result of the implementation of Terms and Conditions associated with section 7 consultations that specify monitoring, and in conjunction with other research and monitoring activities.

(48) *Comment:* The habitat on Rattlesnake Ridge (subpopulations A) is no longer suitable for sparrows.

Our Response: Upon further evaluation of Units 1 and 2 (subpopulation A), we have found that the benefits of excluding this from the final designation outweigh the benefits of their inclusion (see ''Application of Section 4(b)(2) of the Act'' below).

(49) *Comment:* The sparrow is not native to the areas where it is currently nesting.

Our Response: The best available information suggests that sparrows have occurred for a long time in areas where they currently occur. While the sparrow was originally only known to occur on Cape Sable in a different vegetation type than where it is found today, we believe that sparrows historically occurred in the marl prairie habitat where they occur today, and their documentation only on Cape Sable resulted from limited knowledge of their distribution, and not movement from Cape Sable into the marl prairies. The first prong of the definition of critical habitat under the ESA focuses on the areas occupied by the species at the time of listing.

(50) *Comment:* The Miccosukee Tribe asserted that the Service violated the Administrative Procedure Act (APA) by not holding a public hearing on the proposed critical habitat during the first comment period.

Our Response: Pursuant to section 4(b)(5)(E) of the Act, we are to hold one public hearing on a proposed regulation if a request for a hearing is filed within 45 days of the publication of our proposal. Further, we are required to hold a public hearing within an open comment period, provide notice to the public of a public hearing at least 15 days prior to hearing itself, and hold the comment period open for at least 10 days following the hearing. For this rulemaking, the proposed rule was published on October 31, 2006, and the public comment period closed on January 2, 2007. We received the request for a public hearing from the Tribe by facsimile on November 30, 2006, within the 45 day time period required by the Act. It is commonly our practice, upon receiving a request for a public hearing on a proposed critical habitat, to hold at least one hearing in the general area

effected by the proposal either directly following the publication of a proposal or following the release of our draft economic analysis of the proposal. In the case of the Cape Sable seaside sparrow proposed critical habitat, there was insufficient time to coordinate, provide notice to the public and hold a public hearing on the proposal during the initial comment period. Consequently, we held one public hearing in Homestead, Florida, on August 29, 2007, which was during the open public comment period following the release of the draft economic analysis of the proposal. As such, we have abided by the provisions of the Act and our implementing regulations.

Economic Analysis—Policy Issues

(51) *Comment:* Several commenters requested that the economic analysis consider those impacts attributable co-extensively to other causes and not just those that are due solely to the designation of critical habitat.

Our Response: The main body of the Final Economic Analysis (FEA) estimates fully co-extensive impacts associated with the proposed critical habitat designation. Appendix B of the FEA estimates the potential incremental impacts of critical habitat designation for the sparrow. It does so by attempting to isolate those direct and indirect impacts that are expected to be triggered specifically by the critical habitat designation. The incremental conservation efforts and associated impacts included in Appendix B would not be expected to occur absent the designation of critical habitat for the sparrow. Total present value potential incremental impacts are estimated to be $64,000 (discounted at three percent). All other impacts quantified in the FEA are considered baseline impacts and are not expected to be affected by the critical habitat designation.

(52) *Comment:* One commenter states the Draft Economic Analysis should be peer reviewed.

Our Response: For purposes of completing this economic analysis, the Service did consider whether external peer review, beyond that conducted by internal Service economists, was necessary. In this case, the reasonably foreseeable impacts were primarily related to direct costs of conservation efforts. Thus, the circumstances of the analysis did not give rise to a need for external peer review.

(53) *Comment:* Several commenters state that potential benefits of critical habitat designation can and should be quantified and that by quantifying the costs and not the benefit of the proposed rule, public attention is focused on the costs of critical habitat designation while making benefits invisible.

Our Response: Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best scientific data available after taking into consideration the economic impact, impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Service's approach for estimating economic impacts includes both economic efficiency and distributional effects. The measurement of economic efficiency is based on the concept of opportunity costs, which reflect the value of goods and services foregone in order to comply with the effects of the designation (e.g., lost economic opportunity associated with restrictions on land use). Economic benefits can result when increased regulation on land has a beneficial effect due to the elimination of negative externalities caused by the regulation. For example, if designation of critical habitat results protects a viewshed thus increasing the value of the neighboring properties that benefit from the viewshed, the designation would eliminate a negative externality and have a measurable economic benefit. Our analysis consider such economic benefits, and if both economic costs and benefits can be quantified, we can measure the net economic impact. However, for the CSSS proposed critical habitat, we were unable to find any data that would allow quantification of economic benefits, nor was such information submitted during the public comment period.

Most of the benefit categories submitted by the public during through comments reflect broader social values, which are not the same as economic impacts. While the Secretary must consider economic and other relevant impacts as part of the final decision-making process under section 4(b)(2) of the Act, the Act also explicitly states that it is the government's policy to conserve all threatened and endangered species and the ecosystems upon which they depend. Thus, we believe that explicit consideration of broader social values for the sparrow and its habitat, beyond the more traditionally defined economic impacts, is not necessary as Congress has already clarified the social importance.

We note, as a practical matter, it is difficult to develop credible estimates of such values, as they are not readily observed through typical market transactions and can only be inferred through advanced, tailor-made studies that are time consuming and expensive to conduct. We currently lack both the budget and time needed to conduct such research before meeting our court-ordered final rule deadline. In summary, we believe that society places significant value on conserving any and all threatened and endangered species and the habitats upon which they depend and thus needs only to consider whether the economic impacts (both positive and negative) are significant enough to merit exclusion of any particular area without causing the species to go extinct.

(54) *Comment:* One commenter states that the designation of critical habitat will prevent implementation of the Combined Structural and Operational Plan (CSOP) and other Everglades restoration projects and the economic analysis should quantify these impacts.

Our Response: The Service has indicated that it will evaluate individual CERP proposals to determine whether they will result in destruction or adverse modification of critical habitat, and any proposals that would require modification to avoid that result. The Service does not expect most proposed water management actions to reach the level of impact that may result in destruction or adverse modification of designated critical habitat. Therefore, the Service does not believe that any CERP components, as currently planned, will be incompatible with the designation. There are components of CERP that have not reached a point in the planning process sufficient to date to allow evaluation and determination of whether or not they will be completely compatible with the designated critical habitat, and CERP project designs are also expected to continue to change in the future. This does not mean that those activities cannot go forward as planned or proceed with some project modifications. Section 3 of the FEA discusses how beginning with the full implementation of CSOP and CERP (assumed for purposes of the FEA to begin around 2011), it is uncertain whether incremental conservation measures implemented for sparrow conservation will represent a significant constraint on overall water management activities. For example, under certain circumstances, overall Everglades restoration and sparrow conservation efforts may become more harmonized, thus diminishing related economic impacts. Given the current uncertainty concerning overall CERP implementation, however, no long-term impacts from sparrow conservation, and specifically critical habitat designation, are quantified, but are rather discussed qualitatively.

(55) *Comment:* One commenter states that the Service should be cautious about formally quantifying the economic costs and benefits of the proposed rule rather than using qualitative approaches in assessing economic costs.

Our Response: As discussed in Section 1 of the FEA, one purpose of the economic analysis is to estimate the economic impact of reasonably foreseeable actions taken to protect the sparrow. The economic analysis attempts to quantify the economic effects associated with the proposed designation of critical habitat. It does so by taking into account the cost of conservation-related measures that are likely to be associated with future economic activities that may adversely affect the habitat within the proposed critical habitat boundaries. This information is intended to assist the Secretary in determining whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. In addition, this information allows the Service to address the requirements of Executive Orders 12866 and 13211, and the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). The FEA also complies with the interpretation of the U.S. Court of Appeals for the 10th Circuit that ''co-extensive'' effects should be included in the economic analysis to inform decision-makers regarding which areas to designate as critical habitat.

(56) *Comment:* One commenter states that the DEA should provide an analysis of reasonable alternatives for the proposed critical habitat designation such as portions of each area being excluded and modifications to the criteria for the primary constituent elements.

Our Response: As discussed in Section 1, the FEA estimates the potential economic impact of designating each proposed critical habitat unit. Consideration of impacts at a unit level may result in alternate combinations of units of proposed habitat that may or may not ultimately be designated. As a result, the impacts of multiple combinations of units are available for consideration by the Service. When information is available the economic analysis attempts to estimate economic impacts at a finer geographic scale. However, information is not available to disaggregate potential economic impacts to a geographic scale finer than the critical habitat unit for the sparrow. The Service's responsibility in developing the critical habitat unit boundaries and the definitions of PCEs is to use the best available scientific information. There is consequently not a mechanism in this process to develop and consider alternative designs. The DEA analyzed the proposed critical habitat units that were developed based on the application of the best available information. Considering alternatives different from those proposed is not appropriate here because we have no information and analysis to support such alternatives. Additionally, under section 4(b)(2) of the Act, the Secretary has the discretion to exclude areas based on economic or other considerations, but the Act does not provide similar discretion to change the PCEs identified in conjunction with a designation.

(57) *Comment:* The Miccosukee Tribe asserted that we violated the Administrative Procedure Act (APA) by not making the draft economic analysis of the proposed designation available concurrently with the proposed rule.

Our Response: The draft of the economic analysis was made available to the public for review and comment on August 17, 2007 (72 FR 46189). A final economic analysis was then developed based on the public comments and is available from South Florida Ecological Services Office (see **ADDRESSES**). There is no law or regulation which requires publication of the draft economic analysis only concurrently with the proposed rule.

(58) *Comment:* The Miccosukee Tribe asserted that we violated the APA by not supplying the Tribe with the documents and data it requested under the Freedom of Information Act (FOIA).

Our Response: We received the FOIA request on November 8, 2005 and responded well before the proposed critical habitat rule for the Cape Sable seaside sparrow was published on October 31, 2006. FOIA only applies to documents in existence at the time of the response, however the Tribe and the public in general were given adequate time to review and comment on the DEA.

Economic Analysis—Economic Issues

(59) *Comment:* One commenter states that the DEA incorrectly assumes CSOP will be implemented in 2011.

Our Response: Based on communications with the U.S. Army Corps of Engineers (USACE), 2010 to 2011 is the best available estimate of when CSOP will be implemented.

(60) *Comment:* One stakeholder commented that the DEA underestimates the economic cost of past actions undertaken for the sparrow.

Our Response: As discussed in Section 2 of both the DEA and the FEA, conservation efforts for the sparrow are described since the listing of the sparrow as endangered in 1967. No costs are estimated for the period of 1967 to 1994 as no major conservation efforts for the sparrow occurred apart from general species management efforts. Potential impacts are quantified from 1995 until present based on available information. The total present value of pre-designation costs are estimated to be $51.1 million (discounted at three percent). While this represents the best estimate based on available information, it is an underestimate of the total costs incurred for sparrow conservation efforts since it was listed as endangered.

(61) *Comment:* A few commenters state that the DEA unnecessarily truncates the period of analysis for future water management actions to 2011 and costs beyond 2011 should be calculated.

Our Response: As discussed in Section 3 of both the DEA and the FEA, beginning with the full implementation of CSOP and CERP (as described above assumed to begin around 2011), it is uncertain whether incremental conservation measures implemented for sparrow conservation will represent a significant constraint on overall water management activities. For example, under certain circumstances, overall Everglades restoration and sparrow conservation efforts may become more harmonized, thus diminishing related economic impacts. Given the current uncertainty concerning overall CERP implementation, however, no long-term impacts from sparrow conservation are quantified.

However, the USACE has determined, if it needs to modify its currently planned infrastructure modifications under CERP to maintain sparrow favorable hydrological conditions in Unit 1, the post-designation costs estimated in the DEA related to water management changes for sparrow management may be greatly underestimated. The USACE has, however, not conducted an analysis of revisions to CERP that may be required to maintain the primary constituent elements in Unit 1. Therefore, the EA does not quantify the costs associated with potential changes to infrastructure modifications planned for CERP, and the potential need to re-evaluate CERP projects.

(62) *Comment:* One commenter contends the DEA underestimates the costs of structures built by the USACE for the Interim Operational Plan for the

Protection of the Cape Sable Seaside Sparrow (IOP).

Our Response: Section 3 of both the DEA and the FEA estimates $11.9 million (discounted at three percent) was spent on the construction of structures by the USACE since 2000, and no additional monies will be spent by the USACE on structures from 2007 to 2011. This cost information was provided by the USACE and is considered to be the best available.

(63) *Comment:* One commenter asserts that the DEA underestimates the costs of sparrow conservation efforts by not accounting for tree-island losses.

Our Response: As discussed in Section 3 of both the DEA and the FEA, higher water levels in the Water Conservation Areas (WCAs) have resulted in degradation and loss of tree-islands. Tree-islands support the habitat for several wildlife and plant species in the area, and are regarded by the Miccosukee Tribe as important cultural resources connecting them to their heritage and tradition. The loss of tree-islands due to water-management actions has been occurring since at least 1945. On average, over the 55 year period studied, 8.4 islands or 246 acres are lost each year and delayed implementation of the Modified Water Deliveries project will prolong the time needed for the restoration and recovery process for the tree islands in WCA–3. The estimated cost of full restoration of tree-islands range between $50,000 to $500,000 per acre.

While it is clear that tree island loss has occurred in WCA–3 since 1945, and losses will continue to occur until implementation of the Modified Water Deliveries project, the relationship between the IOP water management actions and changes in the rate of tree islands loss is unknown. Therefore, this FEA does not estimate the acres of tree island loss potentially attributable to the IOP nor the potential range in costs to restore tree island losses.

(64) *Comment:* One commenter asserts that the DEA underestimates the costs of sparrow conservation efforts by not accounting for ecological impacts to WCA–3A including the cost of restoring habitat in this area.

Our Response: As discussed in Section 3 of both the DEA and the FEA, the potential ecological impacts due to higher water levels in WCA–3A impacts may include degradation and loss of tree islands, increased risk of establishment of invasive plants, negative impacts on snail kite habitat and foraging opportunities, changes in salinity levels in estuaries, and changes in Everglades restoration objectives due to delay in project implementation. However, the magnitude of marginal increases in water levels in WCA–3A attributable to sparrow conservation efforts remains controversial and uncertain. In the absence of such information, it is not possible to quantify the losses in ecological services and/or potential costs of restoration attributable specifically to sparrow conservation efforts.

(65) *Comment:* One commenter stated the DEA discusses potential impacts to the Miccosukee Tribe, recreational users, recreational and commercial fishing in the St. Lucie and Caloosahatchee estuaries and Florida Bay, and flood protection, agricultural, and urban interests but should quantify costs to these entities.

Our Response: As discussed in Section 3 of both the DEA and the FEA, there could be potential impacts on these activities due to sparrow conservation efforts. The Miccosukee Tribe claims that water management for the sparrow Subpopulation A has irreparably damaged tree islands and restricted access to other cultural resources in WCA–3A. Routing of excess water from near Subpopulation A (Units 1 and 2) through the South Dade Conveyance System (SDCS) has potentially resulted in changes in salinity levels in estuaries of South Florida, reducing fishing opportunities. Concerns have also been raised about the increased likelihood of floods in agricultural and urban areas of southern Miami-Dade County due to excess water in L–31N canal resulting from the re-routing of water through SDCS. The FEA acknowledges these concerns; however, due to lack of sufficient quantitative information regarding the marginal impact of sparrow conservation efforts on water levels, it is unable to quantify the potential cost of these ecological impacts.

(66) *Comment:* One commenter wrote the DEA should assess the cost of damage to Lake Okeechobee that will result if water levels are maintained at excessive stages.

Our Response: As discussed in Section 3 of both the DEA and the FEA, present day nutrient levels in Lake Okeechobee do not meet relevant water quality standards. Hence, flow from Lake Okeechobee, which would normally flow south under the topographic gradient, is artificially restricted from flowing into the Everglades. Instead, freshwater flows from Lake Okeechobee are routed into estuaries through the St. Lucie and Caloosahatchee rivers (which flow to the east and west coasts of Florida, respectively). It is, however, expected that in the future nutrient levels will be reduced and water would be allowed to flow naturally from Lake Okeechobee to the Everglades. The concern is that, in the future, this natural flow of water will be precluded due to water management activities for Subpopulation A (Units 1 and 2), and that the current practice of routing excess freshwater into estuaries will continue to upset the salinity balance within those estuaries on the eastern and western coast of South Florida. These concerns are predicated on the assumption that current water management actions which close S–12 structures and prevent free flow of water between WCA–3A and western Shark River Slough will continue in the future as well. These conditions may change if the USACE's future plans are implemented which would enable more free flowing conditions near eastern Shark River Slough. Also, note that the SFWMD is considering building reservoirs near Lake Okeechobee to preclude increased freshwater flows into estuaries on the east and west coast of South Florida. The marginal impact of sparrow conservation efforts on Lake Okeechobee are uncertain. This analysis, therefore, did not quantify any economic impacts related to water quality in Lake Okeechobee.

(67) *Comment:* One commenter states that the DEA does not mention the costs of controlling invasive exotic species in tree islands in WCA–3A due to the increased stress and mortality of native trees and shrubs resulting from higher water levels.

Our Response: As noted in Section 4 of both the DEA and the FEA, the relationship between water management for the sparrow, and the increase in water levels in WCA–3A is not clearly understood. Despite several commenters' claims, the Service, USACE, and the National Park Service have not been able to prove or disprove that sparrow management has contributed to the increased water levels in WCA–3A. Therefore, the relationship between the increased threat of invasion of exotic plant species and sparrow conservation efforts is unknown. Hence, the FEA does not attribute any marginal costs that may be incurred for protecting against invasive plant species in WCA–3A to sparrow conservation.

(68) *Comment:* One commenter states that the DEA does not quantify the impact of the ISOP and IOP on recreation related activities in wildlife management areas (WMA).

Our Response: To quantify recreational losses associated with the ISOP and IOP an estimate of the number of trips that would be lost specifically due to sparrow conservation efforts is

required. As discussed in Section 4 of both the DEA and the FEA, the marginal reduction in number of trips due to sparrow conservation related efforts is unknown. Therefore, the FEA is unable to quantify the impacts of sparrow conservation efforts on recreation in those portions of the Everglades WMA that could be potentially affected by water management actions for sparrow conservation. Section 4 of the FEA, does however include information from a recent economic study released by the Florida Fish and Wildlife Conservation Commission (FWC) that provides an estimate of the range of visitation related expenditures that can be expected to occur in some parts of the Everglades WMA. The mean trip expenditure for visits to WMAs in Florida could range between $93.21 to $298.86. The consumer surplus associated with these trips was estimated to range between $60.98 and $158.61. These estimates reflect the magnitude of the value of recreation trips in WCA–3A and WCA–3B in the Everglades WMA.

(69) *Comment:* One commenter states that the DEA does not adequately quantify the costs and the uncertainty associated with future collaborative actions between different stakeholders to resolve potential conflicts between sparrow conservation efforts and the Everglades restoration projects.

Our Response: As mentioned in Section 3 of both the DEA and the FEA, it is expected that future consultations between agencies will be required to resolve conflicts between overall Everglades restoration objectives and sparrow conservation needs. However, there is little understanding of how frequently interagency meetings will be required, and how, and if at all, reallocation of agency resources may be required to mediate discussions with other agencies. It is therefore not possible to quantify the potential costs associated with these future changes in federal and state agency operations at this time.

(70) *Comment:* Several commenters state that the DEA fails to specify the kinds of restriction on use of designated critical habitat areas during section 7 consultations.

Our Response: The FEA describes potential changes in access to some parts of the proposed critical habitat areas. There are three areas where recreation may be affected due to the sparrow.

A decrease in recreation may be observed in the Everglades Wildlife Management Area due to restrictions imposed to reduce stress during high water levels resulting potentially from water management activities instituted for sparrow conservation.

Because Subpopulation F (Unit 7) is located in the Everglades Expansion Area, some recreation groups are concerned that sparrow conservation efforts will limit recreational opportunities in this area. The Everglades National Park states that because hydrological conditions currently limit air boating within Unit 7, and because airboaters and the Miccosukee Tribe have been granted limited access in lieu of the 1989 Expansion Act, any marginal impact on recreation due to sparrow conservation is expected to be negligible in the Expansion Area. Therefore the FEA concludes that while the number of trips is not expected to change much, visitors' experiences maybe affected due to additional restrictions arising out of sparrow conservation efforts.

Sparrow management activities in Zone 4 of the Big Cypress National Preserve (BCNP) have led to closure of some areas within Unit 1, and limited access to some other areas. Wheeled vehicles are not allowed within areas that have been identified as sparrow habitat areas. Since off road vehicles may affect the vegetative structure required by sparrows for foraging, nesting, and roosting, administrative closures can prohibit airboats when and where water levels are at a stage in which their use may cause soil displacement. Thus, if the proposed rule is finalized, it is believed that the designation of critical habitat may require additional limits on access to Unit 1 and Unit 2. However, the BCNP has stated that hunting opportunities need not be reduced due to presence of the sparrow.

Summary of Changes From Proposed Rule

We have reconsidered our proposed critical habitat revision for the Cape Sable seaside sparrow in view of comments received during the two public comment periods and the public hearing, the economic analysis, and new information that has become available since we published the proposed rule on October 31, 2006. We have adopted the following changes from the original proposal in this final rule:

(1) We have excluded proposed Units 1, 2, and a portion of the eastern boundary of 7 from the final designation of critical habitat because we believe that the benefits of excluding these specific areas from the designation outweigh the benefits of inclusion. As required by the Act, we have determined that the exclusion of these areas from the final designation of critical habitat will not result in the extinction of the Cape Sable seaside sparrow. These exclusions are discussed in more detail in the Application of Section (4)(b)(2) of the Act section below.

(2) We refined the boundary of proposed Unit 4, which corresponds with sparrow subpopulation C, to correct a mapping error and to more precisely align the boundary better with the PCEs actually present here. This change in boundary resulted in a reduction in area of 108 ac (43 ha) within this unit.

(3) We modified PCE number 2 (herbaceous vegetation) to correct errors and clarify the description of the method of vegetation measurements.

(4) We modified PCE number 4 (hydrologic regime) to incorporate a duration of 30 days for the hydrologic condition that was described (water levels >7.9 inches (20 centimeters)), instead of a simple exceedance of this water depth. This change resulted from several comments indicating that the hydrologic criterion would not accommodate natural environmental variation, and our additional analysis of rainfall and hydrologic data within the Everglades. This additional analysis indicated that natural rainfall events occasionally occur that may cause this criterion to be exceeded for short periods. The frequency of such rainfall events has not been sufficiently predictable to ensure that it would not result in an exceedance of this criterion. The adopted change would ensure that natural rainfall events would not lead us to erroneously conclude that hydrological conditions were incompatible with the maintenance of sparrow habitat. The revised PCE still addresses high water levels, but focuses on persistent deep water that is indicative of broader hydrologic conditions across the landscape which would render sparrow habitat unsuitable.

(5) As a result of the exclusion of proposed Units 1 and 2, the names of the remaining 5 units are being changed to reflect sequential numbering, from 1 though 5, but also indicate the associated sparrow subpopulation. For example, proposed critical habitat Unit 3 will now be referred to as Unit 1—subpopulation B.

(6) Based upon our further evaluation of the survey information regarding the designated areas, we have determined that they were occupied at the time of listing and, therefore, that they are occupied habitat under the Act. See the discussion of each critical habitat unit in the Critical Habitat Description section below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) 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 (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) 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. Conservation, as defined under section 3 of the Act, means, ''to use and the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.'' Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 of the Act requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by the landowner. Where the landowner seeks or requests federal agency funding or authorization that may affect a listed species or critical habitat, the consultation requirements of Section 7(a)(2) would apply, but even in the event of a destruction or adverse modification finding, the landowner's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

To be included as occupied critical habitat, it must have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (areas on which are found the PCEs, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. As discussed below, such areas may also be excluded from critical habitat under section 4(b)(2) of the Act. Areas outside of the geographical area occupied by the species at the time of listing may only be included in critical habitat if the areas are determined to be essential to the conservation of the species. Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. However, if we could not determine that an area was occupied at the time of listing, but the area is currently occupied by the species, it will likely be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support Cape Sable seaside sparrow subpopulations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act, which directs Federal agencies to utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of listed species, and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCP), or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome. Until a critical habitat designation is modified in a future rulemaking proceeding, that designation remains in effect.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we considered those physical and biological features (PCEs) that are essential to the conservation of the species, within areas occupied by the species at the time of listing, that may require special management considerations and protection. These include, but are not limited to, space for individual and population growth and

for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The specific PCEs identified for the Cape Sable seaside sparrow are derived from the biological needs of this species as described in the proposed critical habitat designation published in the **Federal Register** on October 31, 2006 (71 FR 63980).

Pursuant to the Act and its implementing regulations, we are required to identify the known physical and biological features (PCEs) within the geographical area known to be occupied at the time of listing that are essential to the conservation of the sparrow, which may require special management considerations or protections. All areas designated as critical habitat for the Cape Sable seaside sparrow were occupied at the time of listing and are occupied now, within the species' historic geographic range, and contain sufficient PCEs to support at least one life history function.

Based on our current knowledge of the life history, biology, and ecology of the sparrow, and the habitat requirements for sustaining its essential life history functions, we have determined that the PCEs for the Cape Sable seaside sparrows are:

(1) Calcitic marl soils characteristic of the short-hydroperiod freshwater marl prairies of the southern Everglades.

These soils support the unique vegetation community and probably many of the food items upon which sparrows depend. They also result from specific hydrologic conditions that are characteristic of the marl prairies. These soils are an integral component of sparrow habitat.

(2) Herbaceous vegetation that includes greater than 15 percent combined cover of live and standing dead vegetation of one or more of the following species (when measured across an area of greater than 100 ft^2 (9.3 m^2)): Muhly grass (*Muhlenbergia filipes*), Florida little bluestem (*Schizachyrium rhizomatum*), black-topped sedge (*Schoenus nigricans*), and cordgrass (*Spartina bakeri*).

These plant species are largely characteristic of areas where sparrows occur. They act as cover and substrate for foraging, nesting, and normal behavior for sparrows during a variety of environmental conditions. Many other herbaceous plant species and low-growing forbs also occur within sparrow habitat (Ross *et al.* 2006, pp. 10–13), and some of these may have important roles in the life history of the sparrow. However, the species identified in the PCE consistently occur in areas occupied by sparrows (Sah *et al.* 2007, p. 5).

(3) Contiguous open habitat. Sparrow subpopulations require large, expansive, contiguous habitat patches with few or sparse woody shrubs or trees.

This PCE provides the space for population and individual growth, and also provides the open, contiguous habitat that sparrows prefer.

(4) Hydrologic regime such that the water depth, as measured from the water surface down to the soil surface, does not exceed 7.9 inches (20 cm) for more than 30 days during the period from March 15 to June 30 at a frequency of more than 2 out of every 10 years.

This PCE indicates the hydrologic conditions that are required to support and maintain the vegetation composition that sparrows require, as well as those conditions that allow for successful nesting. The period of measurement coincides with the sparrow breeding season, as well as the late portion of the dry season and the early wet season. Water depths >7.9 inches (20 cm) during this period will result in elevated nest failure rates (Lockwood *et al.* 1997, p. 724; Lockwood *et al.* 2001, p.278; Pimm *et al.* 2002, pp. 24–25). If these water depths occur for short periods during nesting season, sparrows may be able to re-nest within the same season. These depths, if they occur for sustained periods (>30 days) within sparrow nesting season, will reduce successful nesting to a level that will be insufficient to support a population if they occur more frequently than 2 out of every 10 years. In addition, because the period of measurement coincides with the dry season and early wet season, and because water levels generally recede slowly, water depths greater than specified or that occur for periods longer than specified, will generally result in hydroperiods longer than those which support the vegetation composition required by the sparrow.

The above PCEs describe: (1) Soils that are widespread in the Everglades short-hydroperiod marshes and support the vegetation types that the sparrows rely on; (2) plant species that are characteristic of sparrow habitat in a variety of hydrologic conditions, that provide structure sufficient to support sparrow nests, and that comprise the substrate that sparrows utilize when there is standing water; (3) contiguous open habitat because sparrows require large, expansive, contiguous habitat patches with sparse woody shrubs or trees; (4) hydrologic conditions that would prevent flooding sparrow nests, maintain hospitable conditions for sparrows occupying these areas, and generally support the vegetation species that are essential to sparrows; and (5) overall the habitat features that support the invertebrate prey base the sparrows rely on and the variability and uniqueness of habitat that provides, for example, periphyton mats for sparrows to survive in the southern Everglades.

Units are designated based on sufficient PCEs being present to support one or more of the species' life history functions. Some units contain all PCEs and support multiple life processes, while some units contain only a portion of the PCEs necessary to support the species' particular use of that habitat. Where a subset of the PCEs is present at the time of designation, this rule protects those PCEs and thus the conservation function of the habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing contain the PCEs and may require special management considerations or protection. All of the areas designated as critical habitat contain one or more of the PCEs. We find that all of the PCEs in the critical habitat may require special management considerations or protection due to threats to the species or its habitat. Such management considerations or protection include: measures to prevent damaging hydrologic conditions, control of invasive exotic plant species, and measures to prevent anthropogenic fires from spreading through Cape Sable seaside sparrow habitat.

Criteria Used To Identify Critical Habitat

As required by section 4(b) of the Act, we used the best scientific data available in determining areas that contain the physical and biological features that are essential to the conservation of the Cape Sable seaside sparrow and other areas that are essential to the conservation of the sparrow. We reviewed all available information about the sparrow's current and historical distribution, ecology and life history, and threats. This included peer-reviewed scientific publications; data and occurrence records compiled by resource management agencies, and independent researchers contracted by the Service and the NPS; unpublished reports; notes and communications with

other qualified biologists or experts; our own data and documents; and the final recovery plan for the sparrow (Service 1999). We also evaluated the conclusions and recommendations that resulted from an independent peer review of the science related to sparrows and their management that was conducted by the American Ornithologists' Union in 1999 (Walters *et al.* 2000), and the recommendations and conclusions of the 2003 South Florida Ecosystem Restoration Multi-species Avian Workshop (SEI 2003), which was held to develop a common understanding of how four avian species, including the Cape Sable seaside sparrow, would respond to Everglades restoration. The Service also participated in the recent 2007 avian ecology workshop, and incorporated and considered scientific and technical information into the final rule that was presented at the workshop and provided in subsequent technical reports from scientists who gave presentations at the workshop. This information included recent results on sparrow population status and habitat, such as that cited in the final rule as Sah *et al.* 2007, and Pimm *et al.* 2007.

Our principal sources of information for identifying the specific areas within the occupied range of the sparrow on which are found those features essential to their conservation were: past records of sparrow occurrence, distribution, and habitat use over time; data and occurrences compiled by FWC personnel, NPS personnel, and independent researchers contracted by the Service and the NPS; as well as peer-reviewed published journal articles and unpublished technical reports.

All historical and recent locations of sparrow occurrences were mapped to better delineate sparrow habitat. Current and historical habitat data from several sources were also evaluated to identify areas outside of the known occupied range of the Cape Sable seaside sparrow that may have the potential to support sparrows. However, while historical habitat maps and historical records of sparrows identified several areas outside of the sparrow's current range where sparrows may have occurred historically, these areas no longer contain one or more habitat features (PCEs) that would support sparrows. Therefore, we did not delineate as critical habitat any areas outside the geographical areas presently occupied by the species. We are not designating critical habitat on Cape Sable, in the Ochopee area, or in agricultural areas in the vicinity of Homestead where sparrows previously occurred for this reason.

To delineate specific boundaries, we began with records of sparrow occurrence from comprehensive surveys conducted from 1981 to 2006 and identified all survey points where sparrows had been detected. Sparrow surveys were conducted in 1981 and each year from 1992 through present following a standard protocol (Pimm *et al.* 2002, p. 65–68), but every survey point was not necessarily surveyed every year. In addition, surveys cannot confirm the absence of sparrows from a survey point. To address the tendency to underestimate the occurrence and distribution of sparrows that results from incomplete surveys and inability to reliably determine absence of sparrows, a survey point was considered to be occupied if a sparrow was recorded in at least one year during the period from 1981 to 2006.

Because survey points are arranged on a 0.6 mile (mi) (1 kilometer (km)) grid and sparrows may only be detected accurately within 656 feet (ft) (200 meters (m)) of a survey point (Pimm *et al.* 2002, p. 153), some areas between survey points remain unsurveyed. We used a 2,460-ft (750-m) radius around each sparrow occurrence to account for unsurveyed areas adjacent to or between the survey points where sparrows likely occurred. The 2,460-ft (750-m) radius distance is approximately half of the distance between diagonally adjacent survey points. In addition, this distance is slightly larger than the sum of the reliable sparrow detection distance from a point (656 ft (200 m)) plus the diameter of an average non-breeding season sparrow home range (1,526 ft (465 m), assuming a circular home range based on home range sizes in Dean and Morrison 2001, p. 36). This distance consequently represents an estimate of the area of habitat that sparrows detected at a point are likely to use.

We drew a boundary that encompassed the 2,460-ft (750-m) radius around sparrow locations but also took into account the particular habitat characteristics as determined through detailed inspection of satellite imagery, aerial photography, and habitat maps. Outlying sparrow occurrences that were recorded in only one year and were not adjacent to other recorded sparrow observations were excluded. Areas along the boundary that did not contain features essential for the sparrow (such as tree islands, cypress forest, and deep-water slough communities) were excluded from the unit. The resulting boundary of each unit encompassed the core areas of habitat that have been occupied by sparrows since 1981. This approach relies on the results of multiple years of surveys and consequently provides a robust assessment of sparrow habitat.

We believe the method we have used to delineate critical habitat encapsulates the core habitat that is important over time for all aspects of the sparrow's life history, accounting for the degree of natural variability in environmental and habitat conditions that occur within the Everglades. The criteria we employed to delineate the boundaries consistently encompass the areas where sparrows have occurred, despite the fact that sparrows may not occur at every point within unit boundaries in every year. In the variable environment of the Everglades wetlands, the size and distribution of the sparrow subpopulations may change in response to environmental conditions, fires, and other factors. In addition, the vegetation within these units may change in response to varying environmental conditions. These unit boundaries were delineated to provide sufficient area such that these subpopulations may continue to persist, even when taking into account some degree of vegetation change and changes in subpopulation size that may occur under adverse conditions. Several distinct units were delineated because flooding and the large fires may render entire units unsuitable for sparrows for extended periods (Lockwood *et al.* 2003, p. 467). When this occurs, maintaining suitable habitat that supports sparrows in other units is necessary to ensure that the impacted units could be repopulated through immigration or through active management.

The delineated areas include the majority of the remaining freshwater marl prairies that currently support the sparrow population and portions of the *Spartina* marshes that support sparrows and reflect the communities that were historically occupied by the sparrow throughout its range. Areas such as dense sawgrass marshes, pine or cypress forests, and mangroves are not included in the designation. We conducted field reconnaissance of some portions of the units and eliminated highly degraded sites, isolated fragments of potential habitat that were unlikely to contribute to the maintenance of the sparrow subpopulations, and areas where mangroves have recently encroached into marl prairie vegetation or where cypress trees are present, but not visible on aerial photographs. In the proposed rule, we delineated seven currently occupied areas that contain habitat features that are essential to the conservation of the Cape Sable seaside sparrow.

We reviewed existing management and conservation plans for these areas

and evaluated the benefits of inclusion and exclusion of each area to determine if any of the areas should be excluded under section 4(b)(2) of the Act. On the basis of this review, we determined that the benefits of exclusion of two of these areas, which currently support sparrow subpopulation A, outweigh the benefits of their inclusion. Accordingly, while these areas contain the habitat features that are essential to the conservation of the species, they are excluded from this final designation (see Application of section 4(b)(2) of the Act below).

When determining critical habitat boundaries, we made every effort to avoid including within the boundaries of the map developed areas such as buildings, paved areas, and other structures that lack PCEs for the Cape Sable seaside sparrow. The scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they affect the species or PCEs in adjacent critical habitat.

Five units are designated based on sufficient arrangement and quantity of the PCEs to support sparrow life processes. Some units contained all PCEs and supported multiple life processes. Some units contained only a portion of the PCEs necessary to support the sparrow's particular use of that habitat. Where a subset of the PCEs was present (such as water depth that does not exceed 7.9 in. (20 cm) for more than 30 days during the period from March 15 to June 30 at a frequency of more than 2 out of every 10 years), these PCEs were sufficient to allow sparrows to occupy the site.

A brief discussion of each area designated as critical habitat is provided in the unit descriptions below. Additional detailed documentation concerning the essential nature of these areas is contained in our supporting record for this rulemaking.

Critical Habitat Designation

We are designating five units as revised critical habitat for the Cape Sable seaside sparrow. The critical habitat units described below constitute our best assessment, at this time, of the areas determined to be occupied at the time of listing that contain the PCEs essential for the conservation of the species that may require special management. We are not designating any areas that were not known to be occupied at the time of listing. We consider all units as currently occupied. The area designated as critical habitat differs significantly from the original 1977 designation. The critical habitat boundaries in the 1977 designation were based on section-township-range boundaries, and only delineated relatively large, general areas within which sparrows were known to occur at that time. Consequently, many areas originally designated were never sparrow habitat, such as forested areas of Long Pine Key and dwarf cypress forests in ENP, deep water slough communities, and agricultural areas. These areas, therefore, are not included in this critical habitat designation, and we have instead sought in this designation to accurately delineate only the specific areas in which one or more of the PCEs are present. For further information on the changes from the original designation, see the descriptions of the individual units below.

The five units proposed for designation as Cape Sable seaside sparrow critical habitat are: (1) Marl prairie habitats that support sparrow subpopulation B and lie exclusively within ENP in the vicinity of the Main Park Road, between Shark River Slough and Taylor Slough; (2) marl prairie habitat that supports sparrow subpopulation C within ENP along its eastern boundary in the vicinity of Taylor Slough; (3) marl prairie habitats that support sparrow subpopulation D within ENP and the State-owned Southern Glades Wildlife and Environmental Area to the east of Taylor Slough; (4) marl prairie habitats that support sparrow subpopulation E within ENP, along the eastern edge of Shark River Slough; and (5) marl prairies that support sparrow subpopulation F within the northern portion of ENP along its eastern boundary and lying to the east of Shark River Slough. Table 1 provides the area by unit determined to meet the definition of critical habitat for the Cape Sable seaside sparrow.

TABLE 1.—CRITICAL HABITAT UNITS FOR THE CAPE SABLE SEASIDE SPARROW

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Federal acres (hectares)	State acres (hectares)	Total acres (hectares)
1. Unit 1—subpopulation B	39,053 (15,804)	0	39,053 (15,804)
2. Unit 2—subpopulation C	7,951 (3,218)	0	7,951 (3,218)
3. Unit 3—subpopulation D	833 (337)	9,867 (3,993)	10,700 (4,330)
4. Unit 4—subpopulation E	22,278 (9,016)	0	22,278 (9,016)
5. Unit 5—subpopulation F	4,883 (1,976)	0	4,883 (1,976)
Total	74,998 (30,351)	9,867 (3,993)	84,865 (34,344)

Below, we provide a brief description and rationale for each unit of revised critical habitat for the Cape Sable seaside sparrow.

Unit 1—Subpopulation B

Unit 1—subpopulation B, consists of 39,053 ac (15,804 ha) of marl prairie and lies exclusively within ENP. The unit is bounded on the south by the long-hydroperiod *Eleocharis*-dominated wet prairie and mangrove zone just inland of Florida Bay, on the west by the sawgrass marshes and deepwater slough communities of Shark River Slough, on the north by the pine rockland vegetation communities that occur within ENP on Long Pine Key, and on the east by the sawgrass marshes and deepwater slough vegetation community of Taylor Slough. There is a continuous elevational gradient across the site, from the high elevations of the pine rocklands north of the unit down to the mangroves in the south. The area is bisected by the Main Park Road, which serves as the primary public access route from Homestead to Florida Bay. It is also bisected by the Old Ingraham Highway, which is an abandoned and partially restored roadway that historically provided access from Homestead to Florida Bay. Much of the

western portion of this roadway was removed and restored to grade, but the eastern portions of the road, with its associated borrow canal and woody vegetation, interrupt the contiguity of the prairies within the eastern portion of this unit. Besides the road, borrow canal, and woody vegetation, which are not critical habitat, the area consists of one large, contiguous expanse of marl prairie that contains all of the PCEs for the sparrow.

When sparrows were first recorded in the area during 1974 to 1975 surveys, they were abundant and widespread (Werner 1975, pp. 32–33). Based on their limited mobility and dispersal capabilities and the presence and persistence of suitable habitat, we believe that the sparrows have occupied this locality since at least the time of listing. These same areas have remained occupied by sparrows since their discovery over 30 years ago. Consequently, we consider the unit to be occupied at the time of listing. The majority of this area was included in the 1977 critical habitat designation for the sparrow (42 FR 40685 and 42 FR 47840).

The area is the largest contiguous patch of marl prairie east of Shark River Slough. It is currently occupied, and has consistently supported the largest sparrow subpopulation since 1992 (Pimm *et al.* 2002, p. 70; Pimm and Bass 2006, p. 16). The natural characteristics of this area make it relatively immune to risk of flooding or frequent fires (Walters *et al.* 2000, p. 1110). Its location south of the high-elevation pine rocklands provides it a degree of protection from high water levels that do not occur within any other units. Within the southern portion of the greater Everglades watershed, water flows from north to south, with most water moving through Shark River Slough, and to a lesser extent through Taylor Slough. The pinelands block the southward flow of water across this area such that the primary influences on water levels are rainfall and overflow from the flanking sloughs. In addition, portions of the area occur on relatively high elevations and remain relatively dry. Consequently, this area is not easily flooded as a result of managed water releases or upstream events, and the high water levels that may occur within other sparrow subpopulations are dampened by its relative position and topographic characteristics.

Similarly, the area is not particularly vulnerable to fires. It is not overdrained as a result of local hydrologic management actions, and the fire frequency is primarily influenced by natural ignition and managed prescribed fire. The public road that traverses the area could result in an increased likelihood of ignitions, but this has not occurred to date. In addition, the presence of both the Main Park Road and the Old Ingraham Highway within this unit provides human access greater than in any other unit and may allow better opportunities to manage both prescribed fires and wildfires such that they would pose a reduced risk to the persistence of the sparrow subpopulation.

Unit 2—Subpopulation C

Unit 2—subpopulation C consists of 7,951 ac (3,218 ha) of marl prairie habitat that lies exclusively within ENP in the vicinity of Taylor Slough, along the eastern edge of ENP. The unit consists of the prairies that flank both sides of the relatively narrow Taylor Slough. The area is bordered by the pine rocklands of Long Pine Key on the west and by isolated pine rocklands and the L–31 W canal that runs along the ENP boundary to the east. It is bordered by an area of constriction in Taylor Slough that is closely flanked on both sides by forested habitats at the southern end and by the Rocky Glades, a region of thin marl soils and exposed limestone and sparse vegetation (ENP 2005, p. 4), to the north. The area is bisected by Main Park Road in the southern portion of the unit, but the remainder of the unit consists of contiguous marl prairies.

Although, sparrows were discovered in the area in 1972 (Ogden 1972, p. 852), we consider this unit to be occupied at the time of listing. At the time of discovery, sparrows were found to be widely distributed and abundant in this area (Werner 1975, p. 32). Based on their limited mobility and dispersal capabilities and the presence and persistence of suitable habitat, we believe that the sparrows have occupied this locality since at least the time of listing. These same areas have remained occupied by sparrows since their discovery over 30 years ago. Following its discovery, the site was the location of some of the first intensive study of the sparrow's biology and its relationship to its habitat (Werner 1975, p. 17). This area lies entirely within the 1977 critical habitat designation for the sparrow (42 FR 40685 and 42 FR 47840).

During the mid-1970s, sparrows were abundant at this site (Werner 1975, p. 32), and surveys in 1981 estimated 432 sparrows in this area (Pimm *et al.* 2002, p. 70). Since 1981, the sparrow subpopulation at this site has declined and has ranged from zero to 144 sparrows between 1995 and the present (Pimm *et al.* 2002, p. 70; Pimm and Bass 2006, p. 16). When sparrows were abundant in the area, the area was in a relatively dry condition, and water levels only rose above ground level for limited periods. Beginning in 1980, a pump station, which was installed along the eastern boundary of ENP at the approximate location of the historic slough, was operated to increase hydroperiods in the area resulting in extended hydroperiods within the portions of the area downstream from the pump station (ENP 2005, p. 39). Vegetation changed in this area from marl prairie to sawgrass marsh (ENP 2005, pp. 3–40), and sparrows ceased to occur in this area. At the same time, the northern portions of sparrow subpopulation C, above the pump station, continued to be overdrained as a result of the adjacent canal and a lowered water table in the agricultural lands immediately adjacent to ENP (Johnson *et al.* 1988, pp. 30–31; ENP 2005, p. 53). In these overdrained areas, frequent fires impacted the habitat and resulted in reduced sparrow numbers (Pimm *et al.* 2002, p. 77).

This area provides a contiguous expanse of habitat that is largely separated from other nearby subpopulations in an area that is uniquely influenced by hydrologic characteristics. The Taylor Slough basin is a relatively small system, and much of the headwaters of the Slough are cut off by canals and agricultural development to the east of ENP. Portions of this unit near the slough have deep soils (15.7 inches (40 cm)) (Taylor 1983, pp. 151–152) and support resilient vegetation that responds rapidly following fire (Taylor 1983, p. 151–152; Werner and Woolfenden 1983, p. 62). Sparrows were reported to reoccupy burned sites in this region within 1 to 2 years following fire (Werner and Woolfenden 1983, p. 62). The unit contains the vegetation characteristics upon which sparrows rely, and most of the area currently experiences hydrologic conditions that are compatible with sparrows (one or more of the PCEs). This area remains heavily influenced by hydrologic management along the eastern boundary of ENP (ENP 2005, p. 17–18). Portions of the area are also overdrained, resulting in the possibility of high fire frequency.

The location of this unit relative to other sparrow subpopulations is significant in that it occurs in the center of the five sparrow subpopulations that occur east of Shark River Slough in the vicinity of Taylor Slough (subpopulations B through F). The habitat in this area most likely plays an important role in supporting dispersal among the eastern subpopulations, acting as a ''hub'' that facilitates

dispersal in the region and recolonization of local areas that are detrimentally impacted.

Unit 3—Subpopulation D

Unit 3—subpopulation D consists of 10,700 ac (4,330 ha) of marl prairie vegetation in an area that lies on the eastern side of the lower portion of Taylor Slough. The majority of this area (9,867 ac (3,993 ha)) is within the Southern Glades Wildlife and Environmental Area, which is jointly managed by the SFWMD and FWC. The remaining 883 ac (337 ha) occurs within the boundary of ENP. The area is bordered on the south by the long-hydroperiod *Eleocharis* vegetation and mangroves that flank Florida Bay, on the west by the sawgrass marshes and deep-water vegetation of Taylor Slough, on the east by long-hydroperiod *Eleocharis* vegetation and overdrained areas with shrub encroachment in the vicinity of U.S. Highway 1, and on the north by agricultural lands and development in the vicinity of Homestead and Florida City.

When sparrows were discovered in this area, they were widespread (Werner 1975, p. 32). Based on their limited mobility and dispersal capabilities and the presence and persistence of suitable habitat, we believe that the sparrows have occupied this locality since at least the time of listing. These same areas have remained occupied by sparrows since their discovery over 30 years ago. We consequently consider this unit to be occupied at the time of listing. A portion of this area, including both Federal- and State-owned lands was included in the 1977 critical habitat designation for the sparrow (42 FR 40685 and 42 FR 47840).

This is the easternmost area where sparrows occur and is the only subpopulation that occurs on the eastern side of Taylor Slough. It is consequently unlikely to be affected by the same factors (e.g., large fires or extreme hydrologic conditions) that affect the other eastern subpopulations that lie primarily between Shark River Slough and Taylor Slough., because this area is separated from other sparrow subpopulations by Taylor Slough, and the area immediately north of this subpopulation consists of agriculture and urban/suburban areas around Homestead and Florida City. These discontinuities in the landscape would tend to prevent fires from spreading from the area which supports sparrow subpopulations B, C, E, and F into the subpopulation D area. Similarly, hydrologic conditions in this region are different than those that affect the other subpopulations because water levels would are attenuated by Taylor Slough and influenced by flood protection and water supply infrastructure in the urban/agricultural areas to the north. Loss of suitable habitat and the sparrow subpopulation within this area would result in a reduction in the geographic range of the sparrow.

The 1981 comprehensive survey of potential sparrow habitat estimated 400 sparrows within this region (Pimm *et al.* 2002, p. 70). This was higher than any number of sparrows recorded in the area in recent years, and estimates have ranged from zero to 112 sparrows between 1992 and the present (Pimm *et al.* 2002, p. 70; Pimm and Bass 2006, p. 16). The area currently contains all PCEs, but the majority of the area is dominated by sawgrass, which indicates a wetter-than-average condition within the spectrum of conditions that support marl prairie and sparrow habitat (Ross *et al.* 2006, p. 16). The habitat in this area is divided by several canals that are part of the C–111 basin. This canal system results in relatively altered hydrologic conditions in the region (ENP 2005, p. 18) and causes extended hydroperiods during wet periods (Pimm *et al.* 2002, p. 78). These factors influencing hydrologic conditions will continue to require management in the future.

Unit 4—Subpopulation E

Unit 4—subpopulation E consists of 22,278 ac (9,016 ha) of marl prairie habitat in an area that lies along the eastern margin of Shark River Slough. This unit occurs entirely within ENP. The area is bordered to the south by the pine rocklands of Long Pine Key and by an area dominated by dwarf cypress trees. The sawgrass marshes and deepwater slough vegetation communities of Shark River Slough comprise the western and northern boundary of the area, and the Rocky Glades comprise the eastern boundary.

When sparrows were discovered in this area, they were relatively widespread (Werner 1975, p. 33). Based on their limited mobility and dispersal capabilities and the presence and persistence of suitable habitat, we believe that the sparrows have occupied this locality since at least the time of listing. These same areas have remained occupied by sparrows since their discovery over 30 years ago. We consequently consider this unit to be occupied at the time of listing. The majority of this area was included in the 1977 critical habitat designation for the sparrow (42 FR 40685 and 42 FR 47840). This area is currently occupied by sparrows and contains all of the PCEs.

This area supports one of the large, relatively stable sparrow subpopulations. It is centrally located among the areas supporting other subpopulations, and its central location probably plays an important role in aiding dispersal among subpopulations, particularly movements from the eastern subpopulations to the subpopulations west of Shark River Slough. Since 1997, this area has supported the second largest sparrow subpopulation, ranging from 576 to nearly 1,000 individuals in recent years (Pimm *et al.* 2002, p. 70; Pimm and Bass 2006, p. 16).

The centrality of this subpopulation helps to prevent it from being affected by managed hydrologic conditions because it is distant from canals, pumps, and water management structures that occur along the boundaries of ENP. The magnitude of any managed water releases is generally dampened by the time their influences reach this area. However, the proximity of this area to Shark River Slough may make the habitats and the sparrows that they support vulnerable to hydrologic effects during wet periods. The western portions of the area may become too deeply inundated to provide good habitat for sparrows under some deep water conditions. Large-scale hydrologic modifications, such as those proposed under the CERP, have the potential to influence habitat conditions in this area (e.g., PCEs), and may require special management attention. Large-scale fires may detrimentally affect this area, and there are no intervening features in the region that would aid in reducing the potential impacts on this subpopulation. While the area is relatively distant from ENP boundaries and potential sources of human-caused ignition, fires that are started along the eastern ENP boundary may rapidly spread into the area. The 2001 Lopez fire was a human-caused fire that affected a portion of this unit (Lockwood *et al.* 2005, p. 4). Risk from fire may also require management in this area to prevent impacts to this large sparrow subpopulation.

Unit 5—Subpopulation F

Unit 5—subpopulation F consists of 4,883 ac (1,976 ha) of marl prairie that lies along the eastern boundary of ENP, and is the northernmost of the units. This is the smallest of the units. It is bounded on the north and west by the sawgrass marshes and deep-water slough vegetation communities associated with Shark River Slough, and on the east by agricultural and residential development and the boundary of ENP. Its southern boundary is defined by the sparse vegetation and shallow soils of the Rocky Glades.

When sparrows were discovered in this area, they were relatively widespread (Werner 1975, p. 33). Based on their limited mobility and dispersal capabilities and the presence and persistence of suitable habitat, we believe that the sparrows have occupied this locality since at least the time of listing. These same areas have remained occupied by sparrows since their discovery over 30 years ago. We consequently consider this unit to be occupied at the time of listing. The majority of this area was included in the 1977 critical habitat designation for the sparrow (42 FR 40685 and 42 FR 47840). This area is currently occupied by sparrows, and contains all of the PCEs.

The first comprehensive surveys of potential sparrow habitat in 1981 resulted in an estimated population of 112 sparrows in this area, and most subsequent surveys have resulted in estimates lower than this, including several years when no sparrows were found (Pimm *et al.* 2002, p. 70; Pimm and Bass 2006, p. 16). However, sparrows were always found in the area in the year following a zero count (Pimm *et al.* 2002, p. 70), indicating that sparrows are consistently using the area.

This area would serve to support or recolonize subpopulations C and E (in units 2 and 4) if those areas were to become unsuitable. Loss of habitat in this area would also result in a reduction in the total spatial distribution of sparrows. Its position in the landscape results in a unique set of threats that differ from those in other subpopulations. Because of its proximity to urban and agricultural areas and its relative topographic location, this area has been consistently overdrained in recent years and remains dry for longer periods than other subpopulations. The relative dryness of the area may allow the site to remain suitable as habitat for sparrows under very wet conditions, when other subpopulations may become deeply inundated for long periods.

Because of its dryness and its proximity to developed areas, this area has been subjected to frequent human-caused fires during the past decade, resulting in periods of poor habitat quality. The PCEs within this unit may require special management consideration due to the threat from fire. In addition, the dry conditions have allowed encroachment of woody vegetation, including invasive exotic and native woody species. Invasive exotic trees, primarily Australian pine (*Casuarina* spp.), melaleuca (*Melaleuca quinquenervia*), and Brazilian pepper (*Schinus terebinthifolius*), have become established in local areas (Werner 1975, pp. 46–47), often forming dense stands. These trees have reduced the suitability of some portions of the habitat for sparrows and have reduced the amount of contiguous open habitat. Aggressive management programs have been implemented by management agencies to address this issue, and control of woody vegetation will continue to be required.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 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. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition (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)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined 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 the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the Cape Sable seaside sparrow or its designated critical habitat will require section 7 consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal

Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultation.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Cape Sable Seaside Sparrow and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for Cape Sable seaside sparrow jeopardy analyses that relies heavily on the importance of subpopulations to the survival and recovery of the sparrow. The section 7(a)(2) analysis is focused not only on these subpopulations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the sparrow in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected subpopulation(s), inclusive of associated habitat conditions, a jeopardy finding for the species is warranted, because of the relationship of each subpopulation to the survival and recovery of the species as a whole.

Adverse Modification Standard

For the reasons described in the Director's December 9, 2004 memorandum, the key factor related to the adverse modification determination is 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 the intended conservation role for the species. Generally, the conservation role of the Cape Sable seaside sparrow critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of the designated critical habitat for the sparrow is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the sparrow include, but are not limited to:

(1) Actions that would significantly and detrimentally alter the hydrology of marl prairie habitat found in all units. Such activities could include, but are not limited to, changes to hydrological management plans that result in increased depth of inundation or duration of flooding within sparrow habitat during the breeding season or draining the areas resulting in increased fire;

(2) Actions that would allow encroachment of nonnative and invasive woody plant species. Such activities could include, but are not limited, to local or regional overdrying and introduction of nonnative woody plant species;

(3) Actions that would significantly and detrimentally alter the topography of a site (such alteration may affect the hydrology of an area or may render an area unsuitable for nesting). Such activities could include, but are not limited to, off-road vehicle use and mechanical clearing;

(4) Actions that would reduce the value of a site by significantly disturbing sparrows from activities, such as foraging and nesting; and

(5) Actions that would significantly and detrimentally alter water quality that may lead to detrimental changes in vegetation species composition and structure or productivity of prey organisms and may have direct detrimental effects on sparrows.

These activities could reduce population sizes and the likelihood of persistence within one or more sparrow subpopulations, and reduce the suitability of habitat for breeding for extended periods.

We consider all of the units designated as critical habitat to contain features that are essential to the conservation of the Cape Sable seaside sparrow. All units are within the geographic range of the species, all areas are currently occupied by sparrows (based on surveys conducted since 1981; Pimm *et al.* 2002, pp. 70–84; Pimm and Bass 2006, pp. 3–6), and all areas are likely to be used by the sparrow. Federal agencies already consult with us on activities in areas currently occupied by the sparrow if the species may be affected by the activity to ensure that those Federal actions do not jeopardize the continued existence of the sparrow or destroy or modify its current designated critical habitat.

Exemptions and Exclusions

Application of Section (4)(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion, and the Congressional record is clear that, in making a determination under the section, the Secretary has discretion as to which factors and how much weight will be given to any factor.

Economics

The primary purpose of an economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for the sparrow. This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. This economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species and the incremental impacts of the critical habitat designation itself. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. This information can be used by the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector.

Economic analyses typically measure impacts against a baseline, which is normally described as the way the world would look absent the proposed action. This is often referred to as the ''incremental'' approach. In 2001, the U.S. Tenth Circuit Court of Appeals

found that the incremental approach provided ''meaningless'' results and instructed the Service to conduct a full analysis of all of the economic impacts of proposed critical habitat, regardless of whether those impacts are attributable coextensively to other causes (*New Mexico Cattle Growers Assn* v. *U.S.F.W.S.,* 248 F.3d 1277 (10th Cir. 2001)). However, since that decision, courts in several other cases have held or implied that an incremental analysis is proper (*see Cape Hatteras Access Preservation Alliance* v. *Department of Interior,* 344 F. Supp. 2d 108 (D.D.C. 2004); *CBD* v. *BLM,* 422 F. Supp. 2d 1115 (N.D. Cal. 2006).

Accordingly, we have reevaluated the baseline used for critical habitat economic analyses. The economic analysis uses a traditional regulatory analysis approach and examines the economic impact of the regulatory change being considered. However, because there is interest by the courts and the public in seeing the total costs of regulation, the analysis also quantifies the existing regulatory baseline. When quantifying the baseline, the analysis looks back to the time of listing.

When estimating the incremental impacts of the critical habitat designation, the Service must consider that most courts have agreed with the *New Mexico Cattle Growers* court when it determined that the Service cannot simply equate adverse modification standard and the jeopardy standard and conclude that there are no economic costs. The *New Mexico Cattle Growers* court said ''Congress clearly intended that economic factors were to be considered.'' Therefore, when conducting this analysis, it is important to attempt to distinguish between the regulation that would exist prior to the designation of critical habitat, under the jeopardy standard, and under sections 9 and 10 of the Act, and the additional regulation that world exist with designation of critical habitat.

Following the publication of the proposed critical habitat designation, we conducted an economic analysis to estimate the potential economic effect of the designation. This draft analysis was based on the coextensive approach only and estimated the potential future impacts associated with conservation efforts for the sparrow in areas proposed for critical habitat designation. The draft analysis was made available for public review on August 14, 2007 (72 FR 46189). We accepted comments on the draft analysis until September 17, 2007. The final economic analysis added the incremental approach, which can be found in Appendix B of the report.

According to the above described principles, the final economic analysis evaluated the potential future effects associated with the listing of the sparrow, as well as any potential effect of the designation of critical habitat above and beyond those regulatory and economic impacts associated with the listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a ''without critical habitat'' baseline and compared it to a ''with critical habitat'' scenario. The ''without critical habitat'' baseline represented the current and expected economic activity under all modifications prior to the critical habitat designation, including protections afforded the species under Federal and State laws. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat.

The economic analysis estimates total potential future impacts associated with conservation efforts for the sparrows in areas designated to be $32.2 million over the next 20 years (undiscounted). The present value of these impacts is $26.9 million using a discount rate of three percent, or $22.2 million using a discount rate of seven percent. The annualized value of these impacts is $1.8 million to $6.70 million, using a discount rate of three percent, or $2.1 million using a discount rate of seven percent.

The majority, or 58 percent, of the total potential costs estimated in this report are associated with potential species management efforts (e.g., surveying and monitoring, research, exotic vegetation control, etc.). The remaining costs are associated with potential water management changes to conserve the sparrow (33 percent), fire management (7 percent), and administrative costs of consultation (2 percent).

Incremental impacts of critical habitat designation are forecast to be $64,000 (present value at a three percent discount rate). Anticipated costs of critical habitat are the value of time and effort of conducting section 7 consultations beyond those associated with the listing of the sparrow. Critical habitat designation for the sparrow is not expected to require modifications to land uses and activities above and beyond modifications that are already required under the listing. However, there are components of CERP that have not been planned sufficiently to date to allow evaluation and determination of whether or not they will be completely compatible with the designated critical habitat, and CERP project designs are expected to continue to change in the future. Due to the uncertain nature and extent of these potential changes, the economic analysis cannot estimate the potential incremental impact of sparrow critical habitat designation on water management activities beyond 2011. Further, due to the controversial nature and complexity of consultations related to water management, the actual administrative costs of consultation may be higher than the average estimates; therefore, incremental administrative costs may be underestimated.

Because it may not be feasible to monetize, or even quantify, the benefits of environmental regulations due to either an absence of defensible, relevant studies or a lack of resources on the implementing agency's part to conduct research, the Service believes that the direct benefits of critical habitat designation are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking. Our economic analysis indicates potential cost resulting from the designation that may be considered measurable, but cannot be considered disproportionate. Therefore, we conclude that there are no significant economic benefits to excluding any areas from critical habitat.

A copy of the final economic analysis with supporting documents are included in our administrative record and may be obtained by contacting U.S. Fish and Wildlife Service, South Florida Ecological Services Office (see **ADDRESSES**).

Other Relevant Impacts

Under section 4(b)(2) of the Act, we must consider, in addition to economic impacts, all other relevant impacts. We consider a number of factors in a section 4(b)(2) analysis. For example, we consider whether there are lands owned or managed by the Department of Defense (DOD) where a national security impact might exist. We also consider whether the landowners have developed any conservation plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of designation.

We have determined that the lands within the designation of critical habitat for the Cape Sable seaside sparrow are not owned or managed by the Department of Defense, there are currently no habitat conservation plans

for the sparrow, and the designation does not include any sovereign Tribal lands. The units do include areas of ENP and BCNP that contain significant Tribal cultural sites and trust resources. We discuss these areas below. Similarly, the designation may result in incidental impacts to lands under perpetual lease to the Miccosukee Tribe of Indians of Florida. We anticipate no impact to national security.

The following is our analysis of the benefits, other than economics, of including all lands considered and proposed as critical habitat and the benefits of excluding such lands.

(1) Benefits of Inclusion

The principal regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation pursuant to section 7 of the Act to ensure that they will not destroy or adversely modify critical habitat. In the *Gifford Pinchot* decision, the U.S. Court of Appeals for the Ninth Circuit ruled that adverse modification evaluations require consideration of impacts on the recovery of species (379 F.3d 1059, 1070–1072). With respect to conducting section 7 consultations, designation of critical habitat would provide benefit by ensuring consideration of potential habitat impacts under the adverse modification standard within designated units for actions with a Federal nexus.

A benefit of inclusion would be that in certain CERP alternative scenarios, particularly those related to sparrow subpopulation A (proposed critical habitat Units 1 and 2), consultation under section 7(a)(2) of the Act under the adverse-modification standard may result in a determination of destruction or adverse modification of designated critical habitat for some CERP components and result in implementation of Reasonable and Prudent Alternatives that would protect the sparrow habitat as it presently exists.

Similarly, a benefit of inclusion with respect to the Interim Operational Plan for the Protection of Cape Sable Seaside Sparrow (IOP) construction of a water management feature would be that 75 ac (31 ha) of proposed unit 7 (sparrow subpopulation F) within the construction footprint would allow us to reassess the project impacts and either adopt the conference opinion on the project as part of a biological opinion, or re-initiate formal consultation of the IOP under section 7 of the Act, which the specific project is a part.

However, the benefit of inclusion in the form of ensuring consideration of sparrow habitat through section 7 consultation is small due to the comprehensive restoration and management plans, detailed below, that already consider the needs of sparrow habitat and the level of active involvement and oversight in Everglades restoration planning, and acknowledging the objectives of restoring the hydrology within the Everglades, including those areas occupied by sparrows.

IOP is a hydrologic operations plan for the southern Everglades wetlands that was enacted in 2002 in response to a Service jeopardy biological opinion on a previous water management plan and its impacts to Cape Sable seaside sparrows. The IOP is composed of implementing measures to reduce flows into sparrow subpopulation A from excessive flooding that would impact the sparrow habitat, while increasing water deliveries to the eastern portions of ENP, including sparrow subpopulations C, E, and F, which would improve sparrow habitat that had been overdrained. The IOP is expected to be replaced in coming years by the Combined Structural and Operational Plan (CSOP), an early Everglade restoration project, and ultimately by the Comprehensive Everglades Restoration Plan (CERP).

CERP has been described as the world's largest ecosystem restoration effort and includes more than 60 major components. The overarching objective of CERP is the restoration, preservation and protection of the south Florida ecosystem while providing for other water-related needs of the region. It covers 16 counties over an 18,000-square-mile area, and centers on an update of the Central & Southern Florida (C&SF) Project.

The remaining Everglades no longer exhibit the functions and richness that defined the pre-drainage ecosystem. There has been a substantial reduction in the size of the Everglades. Water volumes, flow patterns, and water quality within the Everglades ecosystem have been substantially altered. The changes that have taken place in the natural system have led to decreases in native animal and plant populations. Compartmentalization caused by construction of physical barriers such as canals, levees, and roads, or even hydrologic barriers (such as the Water Conservation Areas) has fragmented the system by creating a series of poorly connected natural areas. CERP is intended to reverse the course of the declining health of the ecosystem.

Increasing spatial extent and improving habitat quality can provide a base for improving species abundance and diversity. Improving the connectivity of habitats may also improve the range of many animals and their prey-base and provide for a more natural balance of species within the system. The goal of Everglades restoration is to return the pattern, timing, and volume of water flows to the Everglades landscape to conditions similar to those which occurred prior to the first efforts to control the water in the Everglades, which occurred around 1900.

Service biologists participate on Comprehensive Everglades Restoration Plan project delivery teams and aid in formulating plans, developing alternatives, and evaluating project benefits to help ensure that proposed restoration projects provide benefits for listed species and other Service trust resources. The Service and other representatives of the Department of the Interior (NPS, U.S. Geological Survey, and the South Florida Ecosystem Restoration Task Force) are also actively involved in oversight of the overall Everglades restoration program to ensure that the Department's interests, including endangered species, are addressed and incorporated into restoration projects. In particular, the South Florida Ecosystem Restoration Task Force was established under the WRDA of 1996 (Pub. L. 104–303, section 528(f)) for the specific purpose of coordinating the development of consistent policies, strategies, plans, programs, projects, activities, and priorities addressing the restoration, preservation, and protection of the South Florida ecosystem. With this level of active involvement and oversight in Everglades restoration planning, and acknowledging the objectives of restoring the hydrology within the Everglades, including those areas occupied by sparrows, the benefits of inclusion in the form of ensuring consideration of sparrow habitat through section 7 consultation and improving awareness of opportunities for sparrow conservation during Everglades restoration are small.

In addition to CERP, which primarily addresses hydrologic management, all properties where sparrows currently occur, which include all areas that meet the definition of critical habitat, are managed under management plans that identify management goals and activities that will benefit sparrows and sparrow habitat.

For example, the Conceptual Management Plan (CMP) for the Southern Glades Wildlife and Environmental Area, which supports sparrow subpopulation D, includes management to maintain wildlife

species on the property, including the sparrow. The property was acquired under Florida's ''Save Our Rivers'' Program. The program directs the management and maintenance of lands acquired under the program to occur ''in such a way that as to restore and protect their natural state and condition.'' (FWC 1998). The CMP identifies two wildlife management goals that relate to sparrow conservation: (1) To achieve and maintain the natural diversity, abundance, and distribution of wildlife; (2) to maintain, increase, and ensure the abundance and/or distribution of threatened and endangered wildlife to the point they are no longer threatened or endangered.'' A similar goal for habitat management in the CMP is ''to restore altered ecosystems and wildlife communities to the species composition, abundance, and distribution of fish and wildlife characteristic of and dependent upon native plant communities.'' Management actions undertaken in recent years include hydrologic restoration through removal of barriers to flow, and treatment of over 250 ac (101 ha) of exotic vegetation (SFWMD 2005, p. 13).

ENP, which contains the entirety of four proposed units (3, 4, 6, and 7), and portions of three proposed units (1, 2, and 5), is currently operating under a General Management Plan (GMP) developed in 1989, which was developed in accord with the NPS Organic Act and the Everglades National Park Protection and Expansion Act of 1989 (Pub. L. 101–229). The GMP calls for maintenance of habitats and protection for threatened and endangered species. ENP is currently developing a new GMP. The Service is an active participant on the planning team for the revised GMP, and will work with ENP planners to ensure that the final plan incorporates protections to sparrows and their habitats within ENP. We will also conduct section 7 consultation on the revised plan once it is finalized.

Big Cypress National Preserve, which contains portions of proposed Units 1 and 2, is currently managed under a 1991 GMP. This GMP also addresses protection and management of threatened and endangered species habitat. It specifically addresses the Cape Sable seaside sparrow, with an emphasis on appropriate fire management to maintain both favorable vegetation and sparrows. It also includes discussion of conducting research to determine the cause of sparrow decline in the Ochopee region, efforts to reestablish sparrow populations in the Ochopee region, and implementing exotic plant control to minimize effects on sparrows. We will also conduct section 7 consultation on any changes to the GMP that may affect sparrows, with or without a revised critical habitat designation.

In addition to the existing plans and plans in development for all of the properties that contain proposed critical habitat units, representatives of all of the agencies that manage these properties actively participate in annual meetings held for the sole purpose of reviewing sparrow monitoring results, identifying opportunities to improve sparrow habitat, and addressing sparrow management issues, and fire management in particular. Participants at these meetings help develop wildfire management strategies in sparrow habitat, develop prescribed fire plans, and discuss other sparrow habitat management activities and research and monitoring. Participants in these meetings include land management agencies, the Service, sparrow researchers, and other experts.

The sparrow occurs almost exclusively on public land managed for conservation purposes, which include the protection of listed species. Critical habitat designation alone does not require specific steps toward recovery, and protections and plans already in place on these properties provide for maintenance of sparrows and sparrow habitat on all proposed critical habitat units and all areas where sparrows currently occur. The agencies tasked with managing these lands also routinely participate in meetings to coordinate sparrow recovery, protection, and management measures. These protections and management assurances will remain in place regardless of critical habitat designation. CERP and other Everglades restoration projects provide a framework for hydrologic restoration throughout the Everglades, transforming the area that has been adversely affected by decades of hydrologic alteration to conditions that closely resemble those to which the sparrow adapted before water management changes in the 20th century. The hydrologic management plans for the region are developed in conjunction with the Service, and are subject to consultation under section 7 of the Act under the jeopardy standard. Extensive Department of the Interior involvement and oversight of Everglades restoration projects further ensures consideration of threatened and endangered species.

Inclusion of critical habitat also serves to educate landowners, State and local governments, and the public regarding the potential conservation value of the area. This may help focus, prioritize, and revitalize conservation efforts, such as restoration projects, or more extensive monitoring of populations. In addition, designation of critical habitat could inform State agencies and local governments about areas that could be conserved under State laws or local ordinances. As described above, because all units proposed for designation for the Cape Sable seaside sparrow consist of federally- and State-owned conservation lands that have existing management plans and the management agencies routinely conduct and participate in sparrow recovery, and management and monitoring activities, such benefits of inclusion are small.

After carefully considering the existing conservation plans and strategies in place that address land management, resource management, and hydrologic management, we believe the additional regulatory benefit of inclusion, as well as the educational and informational benefit of inclusion is small.

(2) Benefits of Exclusion

Possibly the greatest benefit of exclusion would be the removal of a potential constraint to the CERP and other Everglades restoration projects.

Because of limited documentation of the conditions that occurred prior to hydrologic alteration, as well as the large number of interacting environmental and climatic factors that will influence the outcomes of any restoration project, there is a large degree of uncertainty that is inherent in planning Everglades restoration. In addition, there is little information available on where sparrows and sparrow habitat occurred prior to alteration of the Everglades. The sparrow was not discovered until 1918 on Cape Sable, which no longer supports the sparrow, most likely as a result of changes in habitat that resulted from the hurricane of 1935. The sparrow was not documented in the freshwater marl prairies where it occurs today until the mid-1900s, many years after hydrologic alteration had begun to shape the Everglades landscape.

As Everglades restoration progresses, changes in hydrological conditions and vegetation toward those that occurred prior to hydrologic alteration are expected to occur. Consequently, changes in the extent and location of unfavorable and favorable habitat conditions for sparrows are also likely to occur. This expectation is at odds with evaluation of critical habitat under section 7 of the Act. Critical habitat designation establishes static boundaries on the landscape and

requires evaluation of proposed alterations of the habitat within the critical habitat boundaries. In certain CERP alternative scenarios, particularly those related to sparrow subpopulation A (proposed critical habitat units 1 and 2), consultation under section 7(a)(2) of the Act under the adverse modification standard may result in a determination of destruction or adverse modification of designated critical habitat for some CERP components and result in implementation of Reasonable and Prudent Alternatives that would reduce the benefits of restoration. Additionally, with the proposed critical habitat in place, planning for some proposed CERP components that bring water west of Shark River Slough is likely to be constrained to avoid an adverse modification determination during consultation. In essence, the requirement to prevent changes from occurring within designated critical habitat boundaries may prevent the change that is intended under CERP. This will likely have the result of limiting the overall environmental benefits of Everglades restoration, even though the best available scientific information states there are strong indications restoration will benefit the species (Sustainable Ecosystems Institute (SEI) 2003). Furthermore, these more favorable conditions may not require intensive hydrologic management for their maintenance. These issues are less of a concern in the eastern sparrow subpopulations, which currently support most of the sparrow population and the best available information suggests will support a large amount of sparrow habitat after CERP is complete.

New science also suggests at least parts of sparrow subpopulation A may not have historically supported the habitats sparrows use today. Recent palynological (the study of live and fossil spores, pollen grains, and similar plant structures) studies within the current marl prairie habitats of subpopulation A have suggested that the area where subpopulation A currently occurs was historically a sawgrass marsh, and is currently a marl prairie as a result of anthropogenic hydrologic change (Bernhardt and Willard 2006, p. 4). This information raises questions about the sustainability of the habitats in this area, particularly as restoration progresses and hydrologic conditions change to those more similar to a restored condition. Evaluations of predicted hydrologic conditions within these areas under restoration indicate that wetter conditions are likely to occur, though the accuracy of predictions and degree of change expected is unclear.

Based on the best available scientific information, we believe that restoration, when complete, will provide habitat that will be sufficient to support a secure sparrow population. An effort to review the best available science on the sparrow and the Everglades restoration found that there are strong indications the restoration will benefit the species, but identified some uncertainty during transition to CERP (SEI 2003). In light of this information, exclusion of proposed Units 1 and 2, the areas within sparrow subpopulation A, would be beneficial to achieving full restoration benefits under CERP and other Everglades restoration projects. Exclusion would allow conservation efforts to focus on activities intended to advance restoration of the broader Everglades ecosystem, which includes sparrow habitat, instead of focusing resources on regulatory compliance with critical habitat.

Planning of CERP components is still under way, and only a few Everglades restoration components have been planned in detail. Consequently, the full extent to which exclusion of proposed Units 1 and 2 may allow broader consideration of alternatives to achieve Everglades restoration objectives is unclear, but potentially significant. It is clear, however, that establishing a narrowly defined set of suitable conditions within a static boundary will limit consideration of alternatives. The Service received numerous comments from the public, the Miccosukee Tribe of Indians of Florida, and other resource management agencies expressing opposition and concern about the proposed designation because of potential conflicts with restoration. Because the process of planning and implementing CERP projects is a multi-agency, multi-stakeholder collaborative process, exclusion of proposed Units 1 and 2 would provide great benefit in terms of completing the collaborative process of Everglades restoration planning with a goal of achieving a broad variety of environmental benefits, including enhancement of listed species habitats and populations. Most importantly, the best available science suggests that there are strong indications that the sparrows will benefit from restoration.

Exclusion of 75 ac (31 ha) of proposed critical habitat along the eastern edge of proposed unit 7, which corresponds to sparrow subpopulation F, would facilitate construction of a water management feature that is being implemented under the IOP to aid in maintaining sparrow habitat. This feature is intended to aid in restoring hydrological conditions along the eastern boundary of ENP, including overdrained portions of habitat within subpopulation F. The construction of the feature is currently under way, and the Service previously completed a conference opinion as part of the IOP on the impacts to proposed critical habitat and determined that it would not result in destruction or adverse modification. If these lands are included in the final designation, we would be required to conduct a formal consultation on the project under section 7 of the Act. This could be as straightforward as adopting the results of the conference opinion or having to re-initiate formal consultation. This re-initiation would not only be on this specific project component, but the entire IOP since they are linked through the initial consultation. Therefore, any re-initiation of consultation for this project would cause a delay in the construction and operations of the feature which could delay benefits to the sparrow, its habitat, and the associated PCEs.

(3) Benefits of Exclusion Outweigh the Benefits of Inclusion

We believe that conservation achieved through implementing management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations that consider critical habitat and are conducted at varying points in time. Management plans commit resources consistently to habitat protection, but also to long-term proactive management of habitats for listed species and conservation benefit to other species, and generally ensure consistent consideration of listed species. Section 7 consultations involving critical habitat only commit Federal agencies to prevent destruction and adverse modification to critical habitat caused by a particular project. They do not commit agencies to conservation, long-term management, or providing benefits to critical habitat or sparrow areas not affected by the proposed project. Thus, any management plan that considers enhancement, recovery, or restoration as the management standard, or which explicitly addresses the listed species, may provide more benefits for the conservation of this listed species than result from the prohibition of destruction or adverse modification of critical habitat alone.

The objectives of CERP, as defined in the Water Resources Development Act (WRDA) 2000 (Pub L. 106–541) provide precisely this commitment to restoration. By restoring the ecosystem

over time, CERP is both intended and expected to benefit the various wildlife species that adapted to the ecosystem's historical conditions, including the sparrow.

To date, many agencies, the Miccosukee Tribe of Indians of Florida, and other organizations have dedicated many years of effort toward developing the CERP, and many CERP features are now in the planning phase. The process of achieving restoration while addressing the variety of existing constraints and concerns of the many restoration partners, such as maintaining flood protection, maintaining adequate water supply for urban and agricultural areas, and maintaining high-quality natural environments within ENP, is extremely challenging. In addition, the tools available for evaluating these constraints and concerns are primarily hydrologic models. These models provide good means to compare various alternative plans and provide good general predictions of conditions, but they also have some inherent uncertainty which limits their ability to make accurate predictions, especially at very small scales.

We also recognize benefits of exclusion that apply to all proposed critical habitat units for the sparrow, but there are differences in the degree of benefit among the different areas. The benefits of exclusion are greatest in those areas where there is the greatest degree of uncertainty in the ultimate outcome of restoration and its effects on current sparrow habitat, and the greatest potential impacts in terms of the potential incompatibility with or limitation of the planned restoration of the ecosystem. These criteria describe proposed Units 1 and 2, the area that supports sparrow subpopulation A. Within this area, current hydrologic modeling indicates wetter conditions under restoration, and the historic condition of the habitat in this area is uncertain, with recent evidence suggesting that it may have supported wetter marsh vegetation instead of the marl prairie habitat type that currently occurs there. In addition, current hydrologic management suggests that the area may be sensitive to hydrologic management changes, and even relatively small increases in water deliveries or rainfall result in relatively large changes in hydroperiod and water depth. Pimm *et al.* (2007, p. 2) report that water levels have been higher than expected in this area in recent years, particularly in the southern portion of subpopulation A. These data indicate that exclusion of the area of subpopulation A would provide a large benefit in terms of reducing constraints to CERP.

Exclusion of proposed Units 1 and 2 would allow restoration planners to work to maximize restoration benefits throughout the ecosystem which will also continue to provide for sparrow habitat needs in the larger Everglades landscape, instead of requiring maintenance of conditions within the proposed static unit boundaries. This would also provide for the maintenance of sparrow habitat through restoration of natural processes instead of through intensive hydrologic management that is quite difficult to administer. These improved opportunities to engage in collaborative and cooperative approaches to sparrow conservation and resource management instead of regulatory compliance are also beneficial. Exclusion of these areas does not remove the requirement for section 7 consultation with respect to CERP, including all Federal actions that affected this area occupied by the species, and the application of the jeopardy standard to these actions.

In addition to removal of constraints to restoration, exclusion of proposed Units 1 and 2 from critical habitat also has a large benefit in terms of enhancing the Service's cooperative working relationship with resource management agencies, the Miccosukee Tribe of Indians of Florida, and other stakeholder groups involved in developing and implementing the CERP. These areas have been a focus of concern by the resource management agencies because of their apparent sensitivity to changes in hydrologic conditions. These areas have also been a primary focus of concern for the Miccosukee Tribe of Indians of Florida. The areas are proximate to Tribal lands and critical habitat constraints in these areas may have the greatest effect on Tribal resources, though the Tribe has expressed concern about other areas as well.

It is our determination therefore that the benefits of exclusion of proposed Units 1 and 2 are significant and outweigh the benefits of their inclusion. This exclusion will provide greater overall opportunities to achieve conservation for sparrows, as well as to achieve restoration of the Everglades. This benefit of exclusion outweighs the small added regulatory and educational benefits of including critical habitat units in this area. We have therefore excluded from the proposed designation areas that support sparrow subpopulation A. These areas were included in the proposed rule (71 FR 63980) and identified as Units 1 and 2.

It is also our determination therefore that the benefits of excluding the 75 ac (31 ha) of proposed critical habitat along the eastern edge of proposed Unit 7 are significant and outweigh the benefits of inclusion. The benefits of inclusion result from the protection of 75 ac (31 ha) of habitat (approximately 1.5 percent of the proposed unit) through a possible re-initiation of the IOP consultation. Exclusion will facilitate construction of a water management feature that will aid in maintaining and benefiting PCEs within the remainder of the unit by minimizing delays through not having to re-initiate consultation on the IOP opinion. This feature will also improve hydrologic conditions in the Rocky Glades and Taylor Slough areas adjacent to the unit, resulting in reduced threats from fires and exotic vegetation encroachment. We have therefore excluded from the proposed designation the 75 ac (31 ha) area along the eastern edge of proposed Unit 7. This area was included in the proposed rule (71 FR 63980).

In the other proposed areas, we have determined not to make any exclusions.

(4) Exclusion Will Not Result in Extinction

The entire known current range of the Cape Sable seaside sparrow lies within Federal and State lands managed for conservation purposes, and over 90 percent of the sparrow population occurs on lands managed by NPS. Existing management plans and agreements provide for protection and management of sparrows and sparrow habitat on all lands on which they occur. The area excluded has supported less than four percent of the sparrow population over the past five years, and it is completely within the boundary of lands managed by NPS. All actions that may affect sparrows or sparrow habitat in the excluded areas will require consultation under section 7 of the Act under the jeopardy standard, and no Federal actions will be permitted which may jeopardize the continued existence of the species, regardless of whether critical habitat is designated. Further, the Service and the Department of the Interior are involved at both overarching policy and technical levels in formulating future hydrological management plans associated with the CERP. The Department of the Interior also has a key oversight role in Everglades restoration. This involvement will further ensure that proposed future plans for hydrologic management will not result in extinction of the species in the absence of the designation of these two proposed units. As a result of the combination of

the existing management plans, the fact that they fall within NPS boundaries, the requirement for section 7 consultation under the jeopardy standard for any action that may affect sparrows within the entire excluded area, we find that the exclusion of proposed Units 1 and 2 (the area that supports sparrow subpopulation A), and 75 ac (31 ha) of Unit 7 (sparrow subpopulation F) will not result in the extinction of the Cape Sable seaside sparrow. Accordingly, we exercise discretion under section 4(b)(2) of the Act to exclude areas which meet the definition of critical habitat in the area of sparrow subpopulation A, which were identified in the proposed rule as Units 1 and 2, and a portion of sparrow subpopulation F, which was identified in the proposed rule as Unit 7 from designation as critical habitat.

Editorial Changes

This final rule incorporates a change to the common and scientific names of the Cape Sable seaside sparrow used in the current critical habitat entry for this species at 50 CFR 17.95(b). The current critical habitat entry, established by an August 11, 1977, final rule (42 FR 40685), uses the common name ''Cape Sable sparrow'' and the scientific name ''*Ammospiza maritima mirabilis.*'' Both names are outdated. The new common name is ''Cape Sable seaside sparrow'' and the new scientific name is ''*Ammodramus maritimus mirabilis.*'' This change will bring the common and scientific names into agreement with those used by the scientific community, as well as names used for this species in the table at 50 CFR 17.11(h).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise legal and policy issues. Based on our economic analysis, the estimate of total potential future costs associated with conservation efforts for the sparrows in areas designated is $32.3 million (undiscounted). The present value of these impacts is $26.9 million using a discounted rate of three percent, or $22.2 million using a discount rate of seven percent. The annualized value of these impacts is $1.8 million to $6.70 million, using a discount rate of three percent, or $2.1 million using a discount rate of seven percent. Therefore, we do not believe that the designation of critical habitat for the Cape Sable seaside sparrow would 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) has not formally reviewed the rule or accompanying economic analysis.

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 need to consider alternative regulatory approaches. Because the determination of critical habitat is a statutory requirement under the ACT, we must then 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 providing that 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 (RFA) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), 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 (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. The SBREFA amended the RFA to require Federal agencies to provide a statement of factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA also amended the RFA to require a certification statement.

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; as well as small businesses. 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 consider the types of activities that might trigger regulatory impacts under this rule, as well as the 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 rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (such as housing development, grazing, oil and gas production, timber harvesting). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may

affect the Cape Sable seaside sparrow. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities.

In our economic analysis of the critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of the Cape Sable seaside sparrow and proposed designation of its critical habitat. This analysis estimated prospective economic impacts due to the implementation of conservation efforts for the species, such water management, species management, fire management, and administrative costs. We determined from our analysis that the economic impacts of conservation efforts for the sparrow are expected to be borne primarily by State and Federal agencies, including the Service, USACE, NPS, and SFWMD. None of these agencies are defined as small entities by the SBA. Consequently, the designation of critical habitat for the sparrow is not expected to impact small entities.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements for the State and Federal agencies that may be required to consult with us each year regarding their project's impact on the Cape Sable seaside sparrow and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or result in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Second, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal or plant species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. We can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. Within the final critical habitat units, the types of Federal actions or authorized activities that we have identified as potential concerns are:

(1) Regulation of activities affecting waters of the United States by the USACE under section 404 of the Clean Water Act;

(2) Regulation of water flows, water levels, water supply to urban and agricultural users, and flood protection activities implemented or licensed by Federal agencies;

(3) Regulation of access, recreation, and conduct of land management activities such as prescribed burning and vegetation management by NPS;

(4) Construction and maintenance of roads, buildings and facilities, and hydrologic infrastructure such as pump stations, canals, and gauging stations;

(5) Hazard mitigation and post-disaster repairs funded by the FEMA; and

(6) Activities funded by the EPA, U.S. Department of Energy, or any other Federal agency.

It is likely that a project sponsor and action agency could modify a project or take measures to protect the sparrow. The kinds of actions that may be included if future reasonable and prudent alternatives become necessary include hydrologic management within certain constraints, conducting reduced or limited projects, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the recovery plan and proposed critical habitat designation. These measures are not likely to result in a significant economic impact to project proponents.

In summary, we have considered whether this would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons and based on currently available information, that it is not likely to affect a substantial number of small entities. Federal involvement, and thus section 7 consultations, would be limited to a subset of the area designated. The most likely Federal involvement could include USACE permits, operations and maintenance of USACE hydrologic infrastructure, development and maintenance of Federal facilities, and development and implementation of NPS management plans. Therefore, we are certifying that this final designation of critical habitat for the Cape Sable seaside sparrow will not have a significant economic impact on a substantial number of small entitites. A regulatory flexibility analysis is not required.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) 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. This final rule to designated critical habitat for the Cape Sable seaside sparrow is not expected to significantly affect energy supplies, distribution, or use (See Appendix C of the final Economic Analysis for further discussion). 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 will 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, or 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) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating 84,865 ac (34,344 ha) within State- and Federally-owned conservation lands in southern Florida as critical habitat for the Cape Sable seaside sparrow in a takings implication assessment. The takings implications assessment concludes that this final designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this final critical habitat designation with appropriate State resource agencies in Florida. The designation of critical habitat in areas currently occupied by the Cape Sable seaside sparrow may impose nominal additional regulatory restrictions to those currently in place and, therefore, may have little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the PCEs of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. This final rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the Cape Sable seaside sparrow.

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

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule 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 Jurisdiction of the Tenth Federal Circuit, we do not need to prepare environmental analyses as defined by 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 (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 516 U.S. 1042 (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. Secretarial Order 3206: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act.

The purpose of Secretarial Order 3206 (Secretarial Order) is to ''clarif(y) the responsibilities of the component

agencies, bureaus, and offices of the Department of the Interior and the Department of Commerce, when actions taken under authority of the Act and associated implementing regulations affect, or may affect, Indian lands, Tribal trust resources, or the exercise of American Indian tribal rights.'' If there is potential that a Tribal activity could cause either direct or incidental take of a species proposed for listing under the Act, then meaningful government-to-government consultation will occur to try to harmonize the Federal trust responsibility to Tribes and Tribal sovereignty with our statutory responsibilities under the Act. The Secretarial Order also requires us to consult with Tribes if the designation of an area as critical habitat might impact tribal trust resources, Tribally owned fee lands, or the exercise of Tribal rights.

While the critical habitat designation does not include any lands under Tribal ownership, the Miccosukee Tribe of Indians of Florida has perpetual rights to portions of ENP and Water Conservation Area 3A which they utilize for traditional purposes. We have excluded lands from the final critical habitat designation pursuant to section 4(b)(2) of the Act which we believe would have the greatest impact on Tribal resources. We recognize the Tribe's concerns that the critical habitat designation, even with the exclusions, may result in indirect impacts to Tribal resources on these lands. We are committed to continuing to work with the Tribe collaboratively to address future issues related to or affected by designation of critical habitat.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the U.S. Fish and Wildlife Service, South Florida Ecological Services Office (see **ADDRESSES**).

Author(s)

The primary authors of this package are the South Florida Ecological Services Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.95(b), revise the entry for ''Cape Sable Sparrow (*Ammospiza maritima mirabilis*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

Cape Sable Seaside Sparrow (*Ammodramus maritimus mirabilis*)

(1) Critical habitat units are depicted for Miami-Dade County, Florida, on the map at paragraph (10) of this entry.

(2) The primary constituent elements of critical habitat for the Cape Sable seaside sparrow are the habitat components that provide:

(i) Calcitic marl soils characteristic of the short-hydroperiod freshwater marl prairies of the southern Everglades;

(ii) Herbaceous vegetation that includes greater than 15 percent combined cover of live and standing dead vegetation of one or more of the following species (when measured across an area of greater than 100 ft^2 (9.3 m^2)): Muhly grass (*Muhlenbergia filipes*), Florida little bluestem (*Schizachyrium rhizomatum*), black-topped sedge (*Schoenus nigricans*), and cordgrass (*Spartina bakeri*);

(iii) Contiguous open habitat (Sparrow subpopulations require large, expansive, contiguous habitat patches with few or sparse woody shrubs or trees.); and

(iv) Hydrologic regime such that the water depth, as measured from the water surface down to the soil surface, does not exceed 7.9 inches (20 cm) for more than 30 days during the period from March 15 to June 30 at a frequency of more than 2 out of every 10 years.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, roads, and other paved areas) and the land on which they are located on the effective date of this rule and not containing one or more of the primary constituent elements.

(4) Critical Habitat Map Units. Data layers defining map units were created using a GIS and adding activity areas around all Cape Sable seaside sparrow point count survey coordinates provided by the National Park Service at which sparrows have been recorded since 1981. These activity areas were merged to form one large polygon, and the boundaries were further refined by delineating suitable sparrow habitat and excluding unsuitable habitat along the borders based on interpretation of 2004 Florida Digital Orthographic Quarter Quads and Landsat false-color satellite imagery (a mosaic of color-balanced Landsat 7 Enhanced Thematic Mapper scenes from December 2003 to April 2004 using bands 5, 4, and 3). The projection represented in all mapping of units is Universal Transverse Mercator (UTM) Zone 17 North, NAD 83 Datum.

(5) Unit 1—Subpopulation B.

(i) *General description:* Unit 1—subpopulation B consists of 39,053 ac (15,804 ha) of marl prairie habitat that lies within Everglades National Park in southwestern Miami-Dade County.

(ii) *Coordinates:* From the Long Pine Key USGS 1:24,000 quadrangle map, Florida, land and water bounded by the following UTM Zone 17 NAD 83 coordinates (E, N): 526917, 2808910; 527089, 2808114; 527308, 2808109; 528319, 2808057; 528750, 2807801; 528903, 2807333; 529236, 2806425; 529691, 2806032; 530946, 2805892; 531630, 2805875; 532441, 2805501; 532453, 2804873; 531446, 2803970; 530870, 2803902; 530241, 2803890; 529854, 2803763; 529386, 2803611; 529182, 2803097; 529144, 2802662; 529296, 2802167; 529728, 2801965; 530138, 2801955; 530767, 2801940; 531394, 2801843; 531909, 2801666; 532314, 2801438; 532312, 2801384; 532262, 2800430; 531975, 2799918; 531693, 2799543; 531425, 2798649; 531410, 2798077; 531094, 2797430; 530664, 2796649; 530325, 2796193; 529846, 2795632; 529518, 2795640; 528557, 2795500; 528065, 2795485; 527787, 2795300; 527450, 2794981; 527006, 2794692; 526591, 2794511; 526017, 2794525; 525180, 2794982; 524802, 2795155; 523987, 2795393; 522696, 2796271; 522130, 2796639; 521206, 2796853; 520557, 2797169; 520072, 2797481; 519245, 2798319; 518416, 2799104; 517970, 2799879; 517793, 2800456; 517534, 2801062; 517266, 2801260; 516889, 2801515; 516474, 2802425; 516492, 2803162; 516515, 2804116; 516430, 2805100; 516586, 2805888; 517094, 2806530; 517680, 2807007; 517877, 2807248; 518159, 2807596; 518527, 2808078; 519049, 2808174; 520226, 2808227; 520856, 2808239; 521482, 2808115; 521938, 2807749; 522335, 2807194; 522567, 2806642; 522754, 2806447; 523349, 2806159; 523785, 2806121; 524093, 2806387; 524429, 2806706; 524846, 2806996; 525021, 2807428; 525305, 2807858; 525560, 2808206; 525406, 2808619; 525663, 2809050; 526296, 2809225; 526917, 2808910.

(6) Unit 2—Subpopulation C.

(i) *General description:* Unit 2—subpopulation C consists of 7,951 ac

(3,218 ha) of marl prairie habitat that lies within Everglades National Park in western Miami-Dade County.

(ii) *Coordinates:* From the Long Pine Key USGS 1:24,000 quadrangle map, Florida, land and water bounded by the following UTM Zone 17 NAD 83 coordinates (E, N): 534909, 2812258; 535011, 2812832; 535192, 2813089; 535650, 2813200; 536001, 2813209; 536491, 2813232; 536722, 2813349; 536766, 2813714; 536778, 2814185; 536928, 2814601; 537297, 2814644; 537496, 2814936; 537501, 2815128; 537809, 2815540; 538341, 2815806; 538763, 2815900; 539200, 2815890; 539689, 2815825; 540446, 2815981; 540831, 2815972; 541166, 2816117; 541174, 2811281; 541550, 2811272; 541579, 2810820; 541603, 2810365; 541542, 2810035; 541376, 2809690; 541211, 2809380; 541133, 2809067; 541108, 2808754; 541296, 2808574; 541238, 2808331; 541146, 2808159; 540844, 2807992; 540792, 2807993; 540634, 2807979; 540542, 2807824; 540538, 2807632; 540309, 2807586; 539756, 2807879; 539132, 2808138; 538618, 2808605; 538734, 2809056; 538901, 2809401; 539067, 2809781; 538637, 2810071; 538068, 2810417; 537342, 2810784; 536684, 2811114; 536178, 2811179; 535884, 2811326; 535598, 2811787; 535253, 2811988; 534909, 2812258;

(7) Unit 3—Subpopulation D.

(i) *General description:* Unit 3—subpopulation D consists of 10,700 ac (4,330 ha) of marl prairie habitat that lies within the Southern Glades Wildlife and Environmental Area and Everglades National Park, in southern Miami-Dade County, as depicted on Map 1.

(ii) *Coordinates:* From the Royal Palm Ranger Station SE USGS 1:24,000 quadrangle map, Florida, land and water bounded by the following UTM Zone 17 NAD 83 coordinates (E, N): 546623, 2805929; 547722, 2805064; 547780, 2804591; 548184, 2804651; 548884, 2804634; 549599, 2804511; 550164, 2804008; 550253, 2803378; 549944, 2802896; 549549, 2802504; 549138, 2802148; 549024, 2801801; 549035, 2801539; 549039, 2800997; 549140, 2800122; 549122, 2799389; 548970, 2798904; 548373, 2798813; 547483, 2798958; 546821, 2799061; 545890, 2798962; 545532, 2798621; 545114, 2798003; 544479, 2797791; 543887, 2797946; 543689, 2798405; 543750, 2799468; 543726, 2799940; 543689, 2800535; 543343, 2800736; 542783, 2800715; 542331, 2800865; 541727, 2801212; 541556, 2801356; 541478, 2801759; 541479, 2802493; 541666, 2802977; 542234, 2803313; 542611, 2803670; 542775, 2803928; 543425, 2804034; 544003, 2804037; 544423, 2804027; 544605, 2804337; 544618, 2804843; 544595, 2805350; 544742, 2805626; 545170, 2805930; 545889, 2805999; 546623, 2805929.

(8) Unit 4—Subpopulation E.

(i) *General description:* Unit 4—subpopulation E consists of 22,278 ac (9,016 ha) of marl prairie habitat that lies within Everglades National Park in central Miami-Dade County.

(ii) *Coordinates:* From the Pahayokee Lookout Tower USGS 1:24,000 quadrangle map, Florida, land and water bounded by the following UTM Zone 17 NAD 83 coordinates (E, N): 521841, 2816533; 525940, 2820239; 525968, 2820266; 526694, 2820741; 527084, 2820978; 527388, 2821080; 527374, 2821600; 527360, 2822148; 527457, 2822748; 527735, 2822906; 528070, 2823117; 528417, 2823848; 529028, 2824134; 529238, 2824841; 529250, 2825333; 529197, 2826539; 529735, 2827183; 530668, 2827160; 531953, 2826965; 532774, 2826835; 533193, 2826031; 533510, 2825530; 533777, 2825195; 534094, 2824694; 533885, 2824015; 533544, 2823558; 533230, 2823045; 533211, 2822307; 533415, 2821672; 533623, 2821174; 534292, 2820473; 534774, 2819968; 534844, 2819501; 535075, 2818811; 535283, 2818368; 534879, 2817556; 534463, 2817375; 533609, 2817259; 531442, 2817339; 530965, 2816913; 530377, 2816462; 529199, 2816545; 528179, 2816378; 527947, 2815864; 527689, 2815432; 527085, 2815447; 526289, 2815439; 525570, 2815237; 525284, 2814779; 525270, 2814177; 525195, 2813357; 525067, 2812648; 523941, 2812621; 523173, 2812640; 522612, 2813283; 521991, 2813682; 521696, 2813963; 521545, 2814542; 521562, 2815253; 521603, 2815772; 521841, 2816533.

(9) Unit 5—Subpopulation F.

(i) *General description:* Unit 5—subpopulation F consists of 4,883 ac (1,976 ha) of marl prairie habitat that lies along the eastern boundary of Everglades National Park in central Miami-Dade County.

(ii) *Coordinates:* From the Grossman Hammock USGS 1:24,000 quadrangle map, Florida, land and water bounded by the following UTM Zone 17 NAD 83 coordinates (E, N): 541235, 2829890; 541864, 2829822; 542679, 2829488; 542727, 2827880; 542685, 2826187; 542686, 2825087; 542692, 2823991; 542685, 2823355; 542348, 2823192; 541263, 2823219; 540481, 2823430; 540440, 2823903; 539993, 2824245; 539241, 2824264; 538593, 2824996; 538791, 2825899; 539239, 2826324; 539702, 2827361; 539928, 2828001; 540356, 2829021; 540489, 2829454; 540691, 2829833; 541235, 2829890.

(10) *Note:* Map of Designated Units follows:

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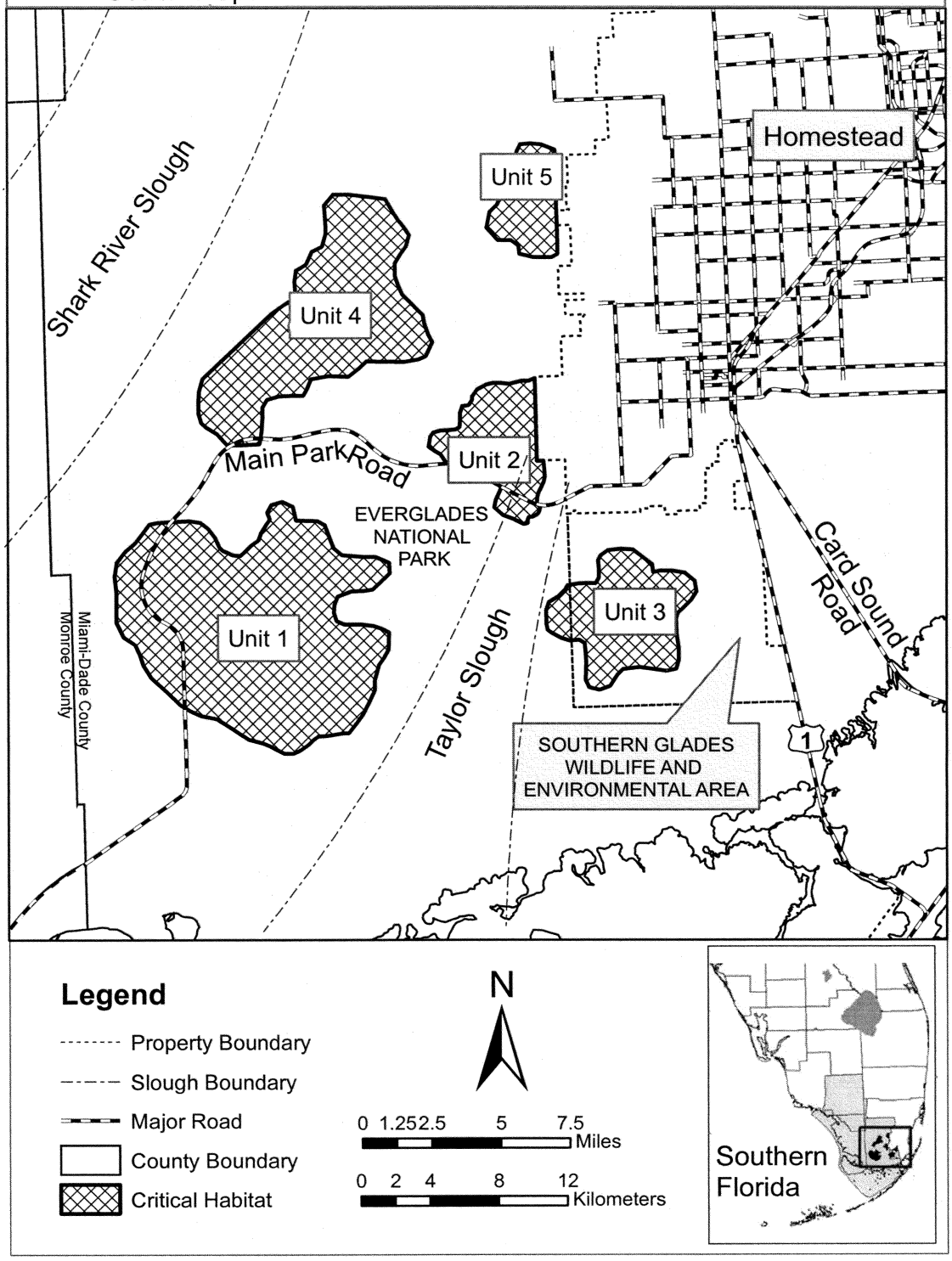
Map 1. Designated Critical Habitat Units for the Cape Sable Seaside Sparrow



* * * * *

Dated: October, 24, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 07–5460 Filed 11–5–07; 8:45 am]

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H.R. 327/P.L. 110–110

Joshua Omvig Veterans Suicide Prevention Act (Nov. 5, 2007; 121 Stat. 1031)

H.R. 1284/P.L. 110–111

Veterans' Compensation Cost-of-Living Adjustment Act of 2007 (Nov. 5, 2007; 121 Stat. 1035)

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