AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

11–14–07 Wednesday
Vol. 72 No. 219 Nov. 14, 2007

Pages 63967–64118

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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

Printed on recycled paper.

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

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AL43

Prevailing Rate Systems; Definition of the Municipality of Bayamon, Puerto Rico, to a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing an interim rule to define the municipality of Bayamon, Puerto Rico, as an area of application to the Guaynabo-San Juan, PR, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because there are NAF FWS employees working in the municipality of Bayamon and the municipality is not currently defined to an NAF wage area.

DATES: This regulation is effective on November 14, 2007. We must receive comments on or before December 14, 2007.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov;* or Fax: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov;* or Fax: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is redefining the Guaynabo-San Juan, Puerto Rico, nonappropriated fund (NAF) Federal Wage System (FWS) wage area to add the municipality of Bayamon, PR, as an area of application. Rio Bayamon Guest Housing, which is part of U.S. Coast Guard Family Housing, now employs three NAF FWS employees in the municipality of Bayamon. Under section 532.219 of title 5, Code of Federal Regulations, each NAF wage area ''shall consist of one or more survey areas, along with nonsurvey areas, if any, having nonappropriated fund employees.''

The municipality of Bayamon does not meet the regulatory criteria under 5 CFR 532.219 to be established as a separate NAF wage area; however, nonsurvey counties may be combined with a survey area to form a wage area. Section 532.219 lists the regulatory criteria that OPM considers when defining FWS wage area boundaries:

(i) Proximity of largest facilities activity in each county;

(ii) Transportation facilities and commuting patterns; and

(iii) Similarities of the counties in:

(A) Overall population;

(B) Private employment in major industry categories; and

(C) Kinds and sizes of private industrial establishments.

Based on an analysis of the regulatory criteria for defining NAF wage areas, OPM is defining the municipality of Bayamon, PR, as an area of application to the Guaynabo-San Juan, PR, NAF FWS wage area. The Guaynabo-San Juan NAF FWS wage area is the only NAF wage area in Puerto Rico. The U.S. Coast Guard Family Housing is located approximately five miles from Fort Buchanan, the wage area's host activity, and the municipality of Bayamon is adjacent to both Fort Buchanan and the municipality of Guaynabo.

In the Guaynabo-San Juan NAF wage area, the survey area will consist of two municipalities (Guaynabo and San Juan) and the area of application will consist of eight municipalities (Aguadilla, Bayamon, Ceiba, Isabela, Ponce, Salinas, Toa Baja, and Vieques) plus the U.S. Virgin Islands of St. Croix and St. Thomas. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended this change by consensus.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists to waive the general notice of proposed rulemaking. Also pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. This notice is being waived and the regulation is being made effective in less than 30 days because it is necessary to define the municipality of Bayamon, PR, to an NAF wage area as soon as possible to cover existing employees under an appropriate wage schedule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the U.S. Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; 532.707 also issued under 5 U.S.C. 552.

■ 2. Appendix D to subpart B is amended by revising the wage area listing for the Guaynabo-San Juan, Puerto Rico, NAF wage area to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

PUERTO RICO

Guaynabo-San Juan

Survey Area

Puerto Rico: (municipalities):
Guaynabo
San Juan

Area of Application. Survey area plus:

Puerto Rico: (municipalities):

Aguadilla
Bayamon
Ceiba
Isabela
Ponce
Salinas
Toa Baja
Vieques
U.S. Virgin Islands
St. Croix
St. Thomas

* * * * *

[FR Doc. E7–22262 Filed 11–13–07; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AL44

Prevailing Rate Systems; Abolishment of Rock Island, IL, as a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing an interim rule to abolish the Rock Island, Illinois, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine Rock Island County, IL, and Johnson County, Iowa, as areas of application to the Lake, IL, NAF FWS wage area. Carroll County, IL, will no longer be defined. These changes are necessary because employment has significantly declined in the Rock Island NAF wage area.

DATES: *Effective date:* This regulation is effective on November 14, 2007. We must receive comments on or before December 14, 2007. *Applicability date:* FWS employees remaining in Rock Island County, IL, and Johnson County, IA, will be transferred to the Lake, IL, NAF wage area schedule on the first day of the first applicable pay period beginning on or after December 15, 2007.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The Rock Island, Illinois, nonappropriated fund (NAF) Federal Wage System (FWS) wage area is presently composed of one survey county, Rock Island County, IL, and two area of application counties, Carroll County, IL, and Johnson County, Iowa. Under section 532.219 of title 5, Code of Federal Regulations, the U.S. Office of Personnel Management (OPM) may establish an NAF wage area when there are a minimum of 26 NAF wage employees in the survey area, the local activity has the capability to host annual local wage surveys, and the survey area has at least 1,800 private enterprise employees in establishments within survey specifications. The Department of Defense (DOD) notified OPM that a reduction in NAF employment in the Rock Island wage area has left only 14 NAF FWS employees in Rock Island County and 9 NAF FWS employees in Johnson County. DOD recommended that OPM abolish the Rock Island NAF FWS wage area and redefine Rock Island and Johnson Counties as areas of application to the Lake, IL, NAF FWS wage area.

Since Rock Island and Johnson Counties will have continuing NAF employment and do not meet the regulatory criteria under 5 CFR 532.219 to be separate survey areas, they must be areas of application. In defining counties as area of application counties, OPM considers the following criteria:

(i) Proximity of largest facilities activity in each county;

(ii) Transportation facilities and commuting patterns; and

(iii) Similarities of the counties in:

(A) Overall population;

(B) Private employment in major industry categories; and

(C) Kinds and sizes of private industrial establishments.

In selecting a wage area to which Rock Island and Johnson Counties should be redefined, proximity favors the Lake NAF wage area. All other criteria are inconclusive. Based on the application of the regulatory criteria, OPM is defining Rock Island and Johnson Counties as areas of application to the Lake NAF wage area.

OPM is removing Carroll County from the wage area definition. There are no longer NAF FWS employees working in Carroll County. Under 5 U.S.C. 5343(a)(1)(B)(i), NAF wage areas ''shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed.'' Therefore, Carroll County should not be defined as part of an NAF wage area.

The Lake NAF wage area will consist of one survey county, Lake County, and eight area of application counties: Cook, Rock Island, and Vermilion Counties, IL; Johnson County, IA; Dickinson and Marquette Counties, Michigan; and Dane and Milwaukee Counties, Wisconsin. FWS employees remaining in the Rock Island wage area will be transferred to the Lake wage area schedule on the first day of the first applicable pay period beginning on or after December 15, 2007. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and recommended this change by consensus.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists to waive the general notice of proposed rulemaking. Also pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. This notice is being waived and the regulation is being made effective in less than 30 days because of the need to transfer the remaining NAF FWS employees in Rock Island and Johnson Counties to a continuing wage area as soon as possible.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the U.S. Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B of Part 532—Nationwide Schedule of Nonappropriated Fund Regular Wage Surveys

■ 2. Appendix B to subpart B is amended by removing, under the State of Illinois, ''Rock Island.''

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

■ 3. Appendix D to subpart B is amended for the State of Illinois by removing the wage area listing for Rock Island, Illinois, and revising the wage area listing for Lake, Illinois, to read as follows:

* * * * *

ILLINOIS

* * * * *

Lake

Survey Area

Illinois:
Lake

Area of application. Survey area plus:

Illinois:
Cook
Rock Island
Vermilion
Iowa:
Johnson
Michigan:
Dickinson
Marquette
Wisconsin:
Dane
Milwaukee

* * * * *

[FR Doc. E7–22263 Filed 11–13–07; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 52, 60, 61, 63, 70, 71, 72, and 76

RIN 3150–AH59

Clarification of NRC Civil Penalty Authority Over Contractors and Subcontractors Who Discriminate Against Employees for Engaging in Protected Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its employee protection regulations to clarify the Commission's authority to impose a civil penalty upon a non-licensee contractor or subcontractor of a Commission licensee, or applicant for a Commission license who violates the NRC's regulations by discriminating against employees for engaging in protected activity. The NRC is also amending its employee protection regulations related to the operation of Gaseous Diffusion Plants to conform with the NRC's other employee protection regulations and to allow the NRC to impose a civil penalty on the United States Enrichment Corporation (USEC or Corporation), as well as a contractor or subcontractor of USEC.

DATES: *Effective Date:* The effective date of this final rule is December 14, 2007.

FOR FURTHER INFORMATION CONTACT: Doug Starkey, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone (301) 415–3456; e-mail *drs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Commission's employee protection regulations in 10 CFR 30.7, 40.7, 50.7, 52.5,[1] 60.9, 61.9, 63.9, 70.7, 71.9, 72.10, and 76.7 prohibit discrimination by a Commission licensee, applicant for a Commission license, a holder of or applicant for a certificate of compliance (CoC) or the Corporation, or contractor or subcontractor of these entities, against employees for engaging in certain protected activities. These regulations identify certain enforcement actions for violations of the requirements. The enforcement actions are denial, revocation, or suspension of the license or certificate; imposition of a civil penalty on the licensee or applicant; or other enforcement action. While the employee protection regulations prohibit discrimination by a contractor or subcontractor, they do not explicitly provide for imposition of a civil penalty on a contractor or subcontractor.

On January 16, 1998, the NRC issued an enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., contractors to the nuclear industry, for discriminating against one of its employees. Following this enforcement action, the NRC considered modifications to the NRC's employee protection regulations that would clearly allow the NRC, within the limits of its jurisdiction, to impose civil penalties on non-licensees for discriminating against employees who have engaged in protected activities. At the time that NRC took the enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., the NRC was engaged in litigation with another non-licensee, Thermal Science, Inc., that included an issue concerning the scope of the Commission's civil penalty authority over non-licensees. Consequently, the NRC deferred modifying the NRC's employee protection regulations pending resolution of action in *Thermal Science, Inc.,* v. *NRC* (Case No. 4:96CV02281–CAS). That case was subsequently settled.

On April 14, 2000, the NRC Executive Director for Operations (EDO) approved the establishment of a Discrimination Task Group (DTG) to, among other things, evaluate the NRC's handling of matters covered by its employee protection regulations. During this review, the DTG held 12 public meetings and provided the public with an opportunity to comment on its draft report. Among other recommendations, the DTG recommended in its report, ''Policy Options and Recommendations for Revising the NRC's Process for Handling Discrimination Issues,'' dated April 2002, that rulemaking be initiated to allow the NRC to impose civil penalties on contractors working for NRC licensees. The DTG received public comments both in favor of, and opposed to, the recommendation that NRC conduct a rulemaking to allow the imposition of civil penalties against contractors for violating the NRC's employee protection requirements.

The DTG's report was forwarded to the Commission as an attachment to SECY–02–0166, ''Policy Options and Recommendations for Revising the NRC's Process for Handling Discrimination Issues,'' dated September 12, 2002. On March 26, 2003, the Commission issued a Staff Requirements Memorandum (SRM) on SECY–02–0166, approving the recommendations of the DTG as revised by the Senior Management Review Team, subject to certain comments. The Senior Management Review Team was appointed by the EDO to review the final recommendations of the DTG and provide any additional perspectives that could enhance the potential options. The Commission approved, without comment, the DTG rulemaking recommendation regarding civil penalties against contractors.

The NRC staff submitted a proposed rule to amend the employee protection regulations to exercise NRC's authority to impose civil penalties against contractors and subcontractors to the Commission on November 17, 2005

[1] This final rule amends 10 CFR 52.5(c) to conform with the other employee protection regulations regarding civil penalties to contractors and subcontractors. 10 CFR 52.5(c) was not included in the proposed rule submitted to the Commission in SECY–05–0212 because, at that time, 10 CFR Part 52 did not contain employee protection provisions. 10 CFR Part 52 has since been amended (72 FR 49352, in part, to include a new section, 10 CFR 52.5, Employee protection.

(SECY–05–0212). In SRM–SECY–05–0212, dated December 21, 2005, the Commission approved the staff's recommendation to publish the proposed rule, with certain changes directed by the Commission. The proposed rule was published in the **Federal Register** on January 31, 2006 (71 FR 5015). Public comment was requested on the proposed amendments as well as on the draft environmental assessment and regulatory analysis that had been prepared on the proposed rule. The final rule does not differ from the recommendations in the proposed rule.

Discussion

The amendments allow the Commission to impose civil penalties on contractors or subcontractors for violations of Commission employee protection requirements. The rule represents a significant change in Commission policy in that, currently, a licensee can receive a civil penalty for the discriminatory activities of its contractor or subcontractor, while the contractor or subcontractor is not subject to civil penalty enforcement action. The amendments clarify the NRC's authority to impose a civil penalty directly on contractors or subcontractors who violate the NRC's employee protection regulations. This authority derives from Section 234 of the Atomic Energy Act, which provides that the Commission may impose civil penalties on any person who violates any rule, regulation, or order issued under any of the enumerated provisions of the Act, or any term, condition, or limitation of any license or certification issued under the Act, or who commits a violation for which a license may be revoked. Section 11s of the Atomic Energy Act broadly defines the term ''person'' to include any individual, corporation, partnership, firm, association, trust, estate, public or private institution group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and any legal successor, representative, agent, or agency of the foregoing.

In 1991, the Commission amended its regulations to allow it to take enforcement action against unlicensed persons for deliberate misconduct (56 FR 40664; August 15, 1991). In so doing, the Commission emphasized that ''any person'' as defined in the Atomic Energy Act necessarily encompasses non-licensees, in order to effectuate the purposes of the Act as it applies to licensees. In that rulemaking, the Commission also noted that it may be able to exercise its Section 234 authority to impose civil penalties on unlicensed persons who deliberately cause a licensee to be in violation of requirements.

In 1998, the NRC issued a Severity Level I Notice of Violation without a civil penalty to Five Star Products, Inc. and Construction Products Research, Inc. in response to their discrimination against a former employee who raised safety concerns. Five Star Products, Inc. and Construction Products Research, Inc. were not licensees, but supplied safety-related basic components and services associated with those basic components to the nuclear industry at the time of the discrimination.[2]

It is important that contractors and subcontractors abide by the Commission's employee protection regulations to effectuate the purposes of the Act because the activities of contractors and subcontractors can clearly affect the safe operation of a licensee's facility. These amendments allow the Commission to impose civil penalties on any non-licensee employer that discriminates against an employee for engaging in protected activity, if that employer is a contractor or subcontractor of a licensee or the Corporation at the time that the employee engaged in the protected activity that resulted in discrimination. These amendments will serve the dual objectives of deterring contractors and subcontractors from violating NRC's employee protection regulations and allowing employees to raise regulatory and safety concerns without fear of retaliation. Both of these objectives are critical to the nuclear industry's ability to carry out licensed activities safely.

However, the Commission emphasizes that the amendments do not affect its ability to impose civil penalties against licensees or applicants for discrimination, nor do they diminish the focus on licensee responsibility in the investigative and enforcement process. The Commission has long held licensees to be responsible for maintaining control and oversight of contractor and subcontractor activities. The modifications to the employee protection regulations do not indicate a change in Commission policy in this regard, nor do they diminish the ability of the NRC to impose civil penalties against licensees. There may be instances when the Commission may wish to issue civil penalties to the responsible contractor or subcontractor, or both, and the licensee. The Commission is maintaining its policy of emphasizing licensee responsibilities for the actions of their contractors and subcontractors. The Commission believes that these amendments are necessary and will offer additional enhancements to the regulatory process by allowing the Commission to exercise its authority to impose a significant enforcement action (i.e., civil penalty) directly on contractors or subcontractors who violate the NRC's employee protection regulations.

The NRC is not amending 10 CFR 71.9 and 72.10 to provide for imposing a civil penalty against a holder or applicant for a CoC, or contractor or subcontractor of a holder or applicant for a CoC. However, if a holder of, or applicant for, a CoC is also a contractor or subcontractor of a licensee or applicant for a license, then a civil penalty could be imposed on the holder of, or applicant for, a CoC in its capacity as a contractor or subcontractor.

In addition, in drafting the proposed rule, the NRC identified that 10 CFR 76.7 does not specify the availability of civil penalties as an enforcement action. The Supplementary Information that accompanied the promulgation of 10 CFR 76.7 does not indicate that this omission was intentional.[3] Therefore, the NRC is amending 10 CFR 76.7 to bring it into conformance with the provisions of the other NRC's employee protection regulations by providing that the Commission may impose a civil penalty on the Corporation or a contractor or subcontractor of the Corporation.

The NRC has also revised the authority citations to correctly reflect current statutory authority.

Comment Analysis

The period for submitting comments on the proposed rule, draft environmental assessment, or regulatory analysis expired on April 17, 2006. The NRC received an e-mail from a private citizen and one letter from Project on Government Oversight (POGO). In general, the comments were supportive of the proposed rule. A summary of the issues raised by the commenters, followed by the NRC's responses to the comments, is provided below.

[2] In an earlier case, CLI–93–23, 38 NRC 169, 178–84 (1993), the Commission held that Five Star Products is a ''contractor'' and Construction Products Research, Inc., is a ''subcontractor'' within the meaning of Section 211 of the Energy Reorganization Act of 1974, as amended, and 10 CFR 50.7.

[3] The Supplementary Information states that part 76 is based upon comparable requirements; in particular, 10 CFR part 70, as modified for the certification process. There is no indication that the omission of civil penalties was intended as such a modification (59 FR 48944; September 23, 1994).

Comment summary. A commenter stated that it should be a rare exception and require Commission consultation before the NRC staff issues an enforcement action against a contractor without taking some enforcement action against the licensee. The commenter added that the Statement of Considerations in the final rulemaking should include a statement that consultation with the Commission will be required if the NRC staff issues enforcement action against a contractor without taking enforcement action against the licensee.

Response. The NRC agrees that enforcement action will generally continue to be taken against a licensee for the discriminatory actions of its contractors or subcontractors. The modifications to the employee protection regulations added in this rulemaking do not indicate a change in Commission policy in this regard or diminish the ability of the NRC to impose civil penalties against licensees or applicants for discrimination, nor do they diminish the focus on licensee responsibility in the investigative and enforcement process.

The NRC does not believe it is necessary to require Commission consultation should the staff proceed with an enforcement action against a contractor or subcontractor but not the licensee. Instead, the NRC believes that the decision about whether to take enforcement action against a contractor without taking some enforcement action against the licensee should be determined after reviewing the circumstances surrounding the discrimination on a case-by-case basis using the guidance in the Enforcement Policy and NRC Enforcement Manual. Although the staff will not automatically seek Commission consultation in these circumstances, the Enforcement Policy currently provides that the Commission will be provided written notification of all enforcement actions involving civil penalties, and that the Commission will be consulted on any proposed enforcement action on which the Commission requests consultation.

Comment summary. One commenter stated that the proposed rule should apply to all licensees, applicants, contractors and subcontractors, including a holder or applicant for a Certificate of Compliance (CoC) under 10 CFR 71.9 and 72.10.

Response. The NRC is not amending 10 CFR 71.9 or 72.10 in this rulemaking to provide for imposing a civil penalty against a holder or applicant for a CoC. However, the Commission, in SRM–SECY–05–0212, ''Proposed Rulemaking—Clarification of the NRC Civil Penalty Authority Over Contractors and Subcontractors Who Discriminate Against Employees for Engaging in Protected Activities,'' directed the NRC staff (although as a low priority) to draft appropriate legislative language to be provided in any future legislative request to Congress for the extension of this rulemaking to cover those excluded certificate holders.

Comment summary. One commenter recommended that the proposed amendments to 10 CFR 30.7, 40.7, 61.9, 70.7, and 71.9 be categorized at the Agreement State Compatibility Category C designation (meets the essential objectives of NRC employee protection requirements) instead of as Agreement State Compatibility Category D (does not need to be adopted by Agreement States), as was proposed. In addition, this comment stated that the NRC should issue a policy statement to Agreement States detailing the obligations under Category C.

Response. The Commission in SRM–SECY–99–002, dated March 12, 1999, disapproved the staff's plans to designate 10 CFR 19.20, 30.7, 40.7, 61.9, and 70.7 as compatibility Category C for Agreement States. However, the Commission provided direction to the staff that its decision could be revisited if the staff believed at some time in the future that there was a regulatory performance gap that put Agreement State licensee employees at a higher risk than NRC licensee employees as a result of the present compatibility category. The NRC staff is currently reevaluating, under an initiative separate from this rulemaking, the effects of the Category D designation on Agreement State employees. Upon completion of that evaluation, the staff will determine whether additional actions are necessary regarding Agreement State employee protection compatibility categories. That evaluation and any subsequent staff recommendations to the Commission regarding compatibility categories are separate from this rulemaking and will not be included in this rulemaking. Therefore, the current compatibility Category D designation has not been changed in this final rule.

Section-by-Section Analysis of Substantive Changes

Sections 30.7, 40.7, 50.7, 52.5, 60.9, 61.9, 63.9, and 70.7, are amended to provide that, in addition to imposing a civil penalty against a Commission licensee or applicant for a Commission license, the Commission may impose a civil penalty against a contractor or subcontractor of either of these entities for discriminating against an employee for engaging in protected activity.

Section 71.9 is amended to provide that, in addition to imposing a civil penalty against a Commission licensee, or applicant, the Commission may impose a civil penalty against a contractor or subcontractor of these entities for discriminating against an employee for engaging in protected activity.

Section 72.10 is amended to provide that, in addition to imposing a civil penalty against a Commission licensee or applicant, the Commission may impose a civil penalty against a contractor or subcontractor of the licensee, or applicant.

Section 76.7 is amended to provide that the Commission may impose a civil penalty on the Corporation or contractor or subcontractor of the Corporation.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' which became effective on September 3, 1997 (62 FR 46517), NRC program elements (including regulations) are placed into Compatibility Categories A, B, C, D, NRC or category Health and Safety (H&S). Category A includes program elements that are basic radiation protection standards or related definitions, signs, labels or terms necessary for a common understanding of radiation protection principles and should be essentially identical to those of the NRC. Category B includes program elements that have significant direct transboundary implications and should be essentially identical to those of the NRC. Compatibility Category C are those program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. Compatibility Category D are those program elements that do not meet any of the criteria of Category A, B, or C, and do not need to be adopted by Agreement States. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to Agreement States under the Atomic Energy Act, as amended, or provisions of Title 10 of the Code of Federal Regulations and cannot be adopted by Agreement States. Category H&S are program elements that are not required for compatibility, but have a particular health and safety role in the regulation of agreement material and the State and

should contain the essential objectives of the NRC program elements.

The revisions to 10 CFR 50.7, 52.5, 60.9, 63.9, 72.10, and 76.7 are not relevant to Agreement State programs because these NRC regulations address areas of exclusive NRC authority and are designated a Compatibility Category NRC. The revisions to 10 CFR 30.7, 40.7, 61.9, 70.7, and 71.9 are categorized as Compatibility Category D, and therefore do not need to be adopted by Agreement States.

Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following methods as indicated.

Public Document Room (PDR). The NRC PDR is located at 11555 Rockville Pike, Rockville, Maryland.

Rulemaking Web site (Web). The NRC's interactive rulemaking Web site is located at *http://ruleforum.llnl.gov.* These documents may be viewed and downloaded electronically via this Web site.

NRC's Agencywide Document Access and Management System (ADAMS). The NRC's PARS Library is located at *http://www.nrc.gov/readingrm/adams.html.*

Document	PDR	Web	ADAMS
Public Comment	X	X	ML060800443
56 FR 40664	X	X	Not Applicable
Public Comment	X	X	ML060880346
Final Rule—Regulatory Analysis	X	X	ML063110473
Final Rule—Environmental Analysis	X	X	ML063110454
Enforcement Policy Revision	X	X	ML063110480
SECY–02–0166	X	X	ML022120479
SRM–SECY–02–0166	X	X	ML030850783
Proposed Rule FRN	X	X	ML060120312
SECY–05–0212	X	X	ML052910161
SRM–SECY–05–0212	X	X	ML053570177
SRM–SECY–99–002	X	X	ML003751577

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is amending its regulations to enable the Commission to impose civil penalties upon non-licensee contractors and subcontractors who discriminate against employees for engaging in certain protected activities. This action does not constitute the establishment of a standard that contains generally applicable requirements.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, Public Law 97–190 (42 U.S.C. 4321 *et seq.*), as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, is not a major Federal action significantly affecting the quality of the human environment; and, therefore, an environmental impact statement is not required. The basis for this determination is that this rulemaking will not significantly increase the probability or consequences of accidents, no changes will be made in the types of effluents that may be released offsite, there will be no significant increase in public radiation exposure, nor will there be a direct nor reasonably foreseeable indirect effect on the water, land, or air.

The NRC requested the views of the States on the environmental assessment (EA). The EA, upon which the Commission's finding of no significant impact is based, is available for examination and copying at the NRC PDR, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. No comments were received on the EA. Single copies of the analysis may be obtained from the Office of Enforcement, U.S. Nuclear Regulatory Commission, at 301–415–3456 or by e-mail at *drs@nrc.gov.*

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0017, 3150–0020, 3150–0011, 3150–0127, 3150–0135, 3150–0199, 3150–0009, 3150–0008, 3150–0132 and 3150–0151.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examined the costs and benefits of the alternatives considered by the Commission. No comments were received on the regulatory analysis. The regulatory analysis is available for inspection in the NRC's PDR, 11555 Rockville Pike, Rockville, MD 20852. Single copies of the analysis may be obtained from the Office of Enforcement, U.S. Nuclear Regulatory Commission, at 301–415–3456 or by e-mail at *drs@nrc.gov.*

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities based on the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Size Standards established by the Nuclear Regulatory Commission (10 CFR 2.810). The provisions only impact contractors or subcontractors of licensees or applicants who violate the NRC's regulations by discriminating against employees who engage in protected activities.

Backfit Analysis

The Commission has determined that the backfit rule is not required for this final rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR Chapter I.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has

verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 63

Criminal penalties, High-level waste, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 76

Certification, Criminal penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Special nuclear material, Uranium enrichment by gaseous diffusion.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Parts 30, 40, 50, 52, 60, 61, 63, 70, 71, 72, and 76.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. In § 30.7, paragraph (c)(2) is revised to read as follows:

§ 30.7 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 3. The authority citation for part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 4. In § 40.7, paragraph (c)(2) is revised to read as follows:

§ 40.7 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 5. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56

also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

■ 6. In § 50.7, paragraph (c)(2) is revised to read as follows:

§ 50.7 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

■ 8. In § 52.5, paragraph (c)(3) is revised to read as follows:

§ 52.5 Employee protection.

* * * * *

(c) * * *

(3) Imposition of a civil penalty on the licensee, holder of a standard design approval, or applicant (including an applicant for a standard design certification under this part following Commission adoption of final design certification rule) or a contractor or subcontractor of the licensee, holder of a standard design approval, or applicant.

* * * * *

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

■ 9. The authority citation for part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 60.9 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

■ 10. In § 60.9, paragraph (c)(2) is revised to read as follows:

§ 60.9 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

■ 11. The authority citation for part 61 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 61.9 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

■ 12. In § 61.9, paragraph (c)(2) is revised to read as follows:

§ 61.9 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 63—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

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

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2238, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 14. In § 63.9, paragraph (c)(2) is revised to read as follows:

§ 63.9 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant; or

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 15. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

■ 16. In § 70.7, paragraph (c)(2) is revised to read as follows:

§ 70.7 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

■ 17. The authority citation for part 71 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948,

953, 954, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat.1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 71.9 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

Section 71.97 also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

■ 18. In § 71.9, paragraph (c)(2) is revised to read as follows:

§ 71.9 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant; or

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 19. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–485, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 20. In § 72.10, paragraph (c)(2) is revised to read as follows:

§ 72.10 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

* * * * *

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

■ 21. The authority citation for part 76 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106 Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321–349 (42 U.S.C. 2201, 2297b-11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(a)); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 76.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 76.22 is also issued under sec.193(f), as amended, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(f)). Section 76.35(j) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

■ 22. Section 76.7 is amended by revising paragraph (c)(2) and adding a new paragraph (c)(3) to read as follows:

§ 76.7 Employee protection.

* * * * *

(c) * * *

(2) Imposition of a civil penalty on the Corporation or a contractor or subcontractor of the Corporation.

(3) Other enforcement action.

* * * * *

Dated at Rockville, Maryland, this 7th day of November 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–22190 Filed 11–13–07; 8:45 am]

BILLING CODE 7590–01–P

EMERGENCY STEEL GUARANTEE LOAN BOARD

13 CFR Part 400

[Docket No. 071031635–7636–01]

Offices of Emergency Steel Guarantee Loan Board

AGENCY: Emergency Steel Guarantee Loan Board.

ACTION: Final rule.

SUMMARY: The Emergency Steel Guarantee Loan Board (''Board'') has changed the location of its offices and is amending its regulations to reflect such change.

DATES: This rule is effective November 14, 2007.

ADDRESSES: Comments may be submitted by any of the following:

- *E-mail: LoanBoard@doc.gov.*
- *Mail:* Marcela Villalta Scott, General Counsel, Emergency Steel Guarantee Loan Board, U.S. Department of Commerce, Room 5876, Washington, DC 20230.
- *Fax:* 202–482–0512.

FOR FURTHER INFORMATION CONTACT: Marcela Villalta Scott, General Counsel, Emergency Steel Guarantee Loan Board, at (202) 482–3843 or *LoanBoard@doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The principal offices of the Emergency Steel Guarantee Loan Program as set forth in 13 CFR 400.103 have changed to the U.S. Department of Commerce, Washington, DC 20230.

Classification

Executive Order 12866

This final rule has been determined to be exempt from Executive Order 12866.

Administrative Procedure Act

This rule is exempt from the rulemaking requirements contained in 5 U.S.C. 553 pursuant to 5 U.S.C. 553(a)(2), as it involves a matter relating to loans and to Board management. As such, prior notice and an opportunity for public comment and a delay in effectiveness otherwise required under 5 U.S.C. 553 are inapplicable to this rule.

Regulatory Flexibility Act

Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 13 CFR Part 400

Administrative practice and procedure, Environmental impact statement, Freedom of Information, Loan Programs—Steel, Reporting and recordkeeping requirements.

Dated: November 7, 2007.

Marcela Villalta Scott,

General Counsel, Emergency Steel Guarantee Loan Board.

■ For the reasons set forth in the preamble, amend 13 CFR part 400 as follows:

■ 1. The authority citation for part 400 continues to read as follows:

Authority: Pub. L. 106–51, 113 Stat. 252 (15 U.S.C. 1841 note).

■ 2. Section 400.103 is revised to read as follows:

§ 400.103 Offices.

The principal offices of the Board are in the U.S. Department of Commerce, Washington, DC 20230.

[FR Doc. E7–22253 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–NB–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, and 166

RIN 3038–AC26

Exemption From Registration for Certain Foreign Persons

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has amended Commission Regulation 3.10 concerning the registration of firms located outside the U.S. that are engaged in intermediating commodity interest transactions on U.S. designated contract markets (''DCMs'') and U.S. derivative transaction execution facilities (''DTEFs'').[1] The amended regulation codifies past actions of the Commission or its staff to permit certain foreign firms that limit their customers to foreign customers, and submit U.S. DCM and DTEF business on behalf of those customers for clearing on an omnibus basis through a registered futures commission merchant (''FCM''), to be exempt from registration as an FCM pursuant to section 4d of the Commodity Exchange Act (''Act''). The amended regulation similarly extends the relief from registration to those foreign persons acting in the capacity of an introducing broker (''IB''), commodity trading advisor (''CTA'') and commodity pool operator (''CPO'') solely on behalf of foreign customers.

DATES: *Effective Date:* December 14, 2007.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Deputy Director, or Andrew V. Chapin, Special Counsel, at (202) 418–5430, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: *lpatent@cftc.gov* or *achapin@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Commission published for comment on April 2, 2007 proposed amendments to Commission Regulation 3.10 (''the Proposal'')[2] to clarify when certain persons located outside the U.S. may conduct commodity interest activities with respect to U.S. markets on behalf of customers located outside the U.S. without having to register in the appropriate capacity with the Commission. In particular, the Commission proposed to exempt from registration as an FCM certain foreign firms that limit their customers to foreign customers and submit U.S. DCM and DTEF business on behalf of those customers for clearing on an omnibus basis through a registered FCM. These firms were referred to in the Proposal as ''foreign brokers.'' The Commission also proposed to create a single definition of ''foreign broker'' and ''commodity interest'' consistent with the Proposal.

Part 3 of the Commission's regulations governs the registration of intermediaries engaged in the offer and sale of, and providing advice concerning, futures and commodity options traded on U.S. markets, including both DCMs and DTEFs. In particular, Regulation 3.10 sets forth the manner in which FCMs, IBs, CTAs, CPOs, and leverage transaction merchants must apply for registration with the Commission. Regulation 3.10(c) also provides an exemption from registration for certain persons. Currently, the only exemption from registration as an FCM is for any person trading solely for proprietary accounts, as defined in Regulation 1.3(y).

As explained in the Proposal, the Commission sought to provide clarity to its registration requirements under Part 3 by codifying the longstanding Commission policy, known as the ''foreign broker exemption,'' regarding the activities of certain foreign intermediaries engaged in soliciting or accepting commodity interest transactions solely on behalf of customers located outside the U.S. In particular, the Commission proposed to exempt from registration as an FCM any person that (1) limits its customers to customers located outside the U.S., (2) confines its commodity interest activities to areas outside the U.S, *and* (3) submits its trades for clearing on an omnibus basis through a registered FCM.

II. Comments Regarding the Proposal

The Commission received two comment letters on the Proposal, one from the National Futures Association (''NFA'') and one from the Futures Industry Association (''FIA''). Both NFA and FIA supported the Commission's initiative to codify the foreign broker exemption as a means to provide greater legal certainty to futures industry participants. However, FIA commented that the effect of the Proposal would be to extend the Commission's regulatory requirements over the activities of foreign brokers, rather than simply codify the Commission's existing policy. In particular, FIA stated that, as proposed, amended Regulation 3.10(c)(2)(ii) would subject foreign brokers to the full panoply of Commission regulations applicable to registered FCMs, such as requirements regarding fitness, customer funds segregation, and regulatory capital.[3] As such, FIA recommended that the Commission revise the proposed amendment to Regulation 3.10(c) to limit the extent to which the provisions of the Act and Commission regulations apply in a manner consistent with the Commission's longstanding policy towards foreign brokers. In support of its request, FIA noted that the Commission has recognized that a foreign broker holding a customer omnibus account with a registered FCM does not implicate the same regulatory concerns as a foreign broker that has more direct contact with U.S. markets, such as a registered FCM clearing on a DCM or DTEF.[4]

Additionally, both FIA and NFA recommended that the Commission provide greater legal certainty to futures industry participants by similarly codifying existing Commission policy with respect to registration exemptions for other foreign intermediaries, i.e., IBs, CTAs and CPOs, that are not engaged in commodity interest activities on behalf of U.S. customers. In support of its request, FIA referred to the **Federal Register** release issued by the Commission promulgating final rules establishing the registration requirements and procedures for introducing brokers and other futures industry professionals. In that release, the Commission stated that:

given this agency's limited resources, it is appropriate at this time to focus [the

[1] Commission regulations referred to herein are found at 17 CFR Ch. I (2007). References to trading on U.S. DCMs or DTEFs shall include trading that is subject to the rules of such entities as well.

[2] 72 FR 15637 (April 2, 2007).

[3] Proposed Regulation 3.10(c)(2)(ii) provided that a foreign broker acting in accordance with the codified foreign broker exemption ''remains subject to *all* other provisions of the Act and of the rules, regulations, and orders thereunder.'' (emphasis added).

[4] *See, e.g.,* 72 FR at 15639 (April 2, 2007).

Commission's] customer protection activities upon domestic firms and upon firms soliciting or accepting orders from domestic users of the futures markets and that the protection of foreign customers of firms confining their activities to areas outside this country, its territories, and possessions may best be for local authorities in such areas.[5]

Accordingly, FIA requested that the Commission amend its regulations to provide an exemption from registration to any foreign person engaged in the activity of an IB solely on behalf of customers located outside the U.S.

Similarly, NFA referred to the no-action position taken by the Commission's Office of General Counsel stating that: (1) A person who operates a commodity pool outside of the territorial U.S. is not required to register as a CPO when such a person confines the pool activities to areas outside the territorial U.S., none of the participants in the pool is a resident or citizen of the U.S., and none of the funds or capital contributed to the pool is from U.S. sources; and (2) a trading advisor located outside the territorial U.S. who provides advice as to the advisability of trading futures contracts on domestic and foreign exchanges is not required to register when such a person confines its advisory services to areas outside of the territorial U.S., and none of its clients is a citizen or resident of the U.S.[6] Accordingly, NFA requested that the Commission amend its regulations to provide an exemption from registration for any foreign person acting in the capacity of a CTA or CPO solely on behalf of customers located outside the U.S.

Consistent with this request, NFA further requested that the Commission amend Regulation 3.12(h) to create an exemption from registration as an associated person for any individual located in the branch office of a Commission registrant that does not solicit or accept orders from customers located in the U.S.

The Commission did not receive any comments regarding its proposal to revise and reserve certain regulations to provide a single definition for ''foreign broker'' and ''commodity interest'' that would apply to all of its regulations.

III. Final Regulations

As set forth in the Proposal, the Commission believes it is appropriate to amend its regulations to provide greater legal certainty with respect to the commodity interest activities on behalf of non-U.S. customers that are undertaken on U.S. markets by persons located outside the U.S. It was the Commission's intent to codify its longstanding policy, and not to extend the scope of its regulations with respect to foreign brokers or other foreign intermediaries. As one of the commenters noted, transactions solicited or accepted by foreign brokers on behalf of non-U.S. customers for trading on U.S. markets directly implicate the pricing and hedging functions of the domestic markets, as would be the case for an entirely domestic transaction.[7] The Commission believes that the presence of a registered FCM in the clearing process obviates the need for a foreign broker to comply with the full panoply of Commission regulations applicable to registered FCMs. A registered FCM clearing a transaction on a DCM or DTEF, among other requirements, must satisfy the fitness standards administered by NFA and the minimum capital requirements set forth in Commission Regulation 1.17, as well as comply with the requirements regarding the segregation of customer funds set forth in section 4d of the Act.

In light of the comments received and its own reconsideration of the issues involved, the Commission has determined to amend Regulation 3.10 with certain revisions to the Proposal. As amended, Regulation 3.10 will specify that a foreign broker is not required to register as an FCM if it: (1) Limits its customers to customers located outside the U.S., (2) confines its commodity interest activities to areas outside the U.S, *and* (3) submits its trades for clearing on an omnibus basis through a registered FCM. A foreign broker will remain subject to existing provisions applicable to the activities of a foreign broker, including Parts 15 to 21 of the Commission's regulations regarding large trader reporting,[8] and Regulation 1.58 regarding gross collection of exchange-set margin. Conversely, a foreign broker will not be subject to any provisions of the Act or Commission rules, regulations and orders thereunder applicable solely to a registered FCM or to any person required to be so registered. For example, a foreign broker will not be required to comply with the minimum financial requirements or requirements regarding the segregation of customer funds, reporting or disclosure to customers, and related recordkeeping pertaining to the foregoing requirements. However, the provisions of the Act and Commission regulations applicable to ''any person'' will apply to a foreign broker, such as those prohibiting fraud or manipulation by a foreign broker trading for its own account.

The Commission also has determined to adopt new Regulation 3.10(c)(3) to provide an exemption from registration to other foreign intermediaries acting solely on behalf of customers located outside the U.S. In particular, the Commission is adopting new Regulation 3.10(c)(3)(i) to provide an exemption from registration for any foreign person acting in the capacity of an IB, CTA or CPO solely with the respect to customers located outside the U.S., provided that all commodity interest transactions are submitted for clearing to a registered FCM. A foreign person acting in the capacity of a CTA or CPO will remain subject to the antifraud prohibition of section 4*o* of the Act. Otherwise, consistent with the revised regulation applicable to foreign brokers, new Regulation 3.10(c)(3)(ii) states that any foreign person acting in accordance with this registration exemption is not required to comply with those provisions of the Act and of the rules, regulations and orders thereunder applicable solely to any person registered in such capacity, or any person required to be so registered.

Consistent with the amendments applicable to foreign intermediaries, the Commission also has determined to amend Regulation 3.12 to provide an exemption from AP registration for any foreign individual located in the foreign branch office of a Commission registrant that engages in any activity as an AP, as defined in Regulation 1.3(aa), solely on behalf of customers located outside the U.S.[9] A person exempt from AP registration pursuant to this provision may not supervise other individuals engaged in the solicitation of customers located in the U.S. for trading on a DCM or DTEF.

Any person seeking to act in accordance with any of the foregoing exemptions from registration should

[5] 48 FR 35248, 35261 (August 3, 1983).

[6] CFTC Staff Letter 76–21, [1975–1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,222 (August 15, 1976).

[7] *See Tamari* v. *Bache & Co.,* 730 F.2d 1103, 1108 (7th Cir. 1984), *cert. denied,* 469 U.S. 871 (1984) (holding that a U.S. federal district court had subject matter jurisdiction under the Act over a cause of action arising from trading on U.S. exchanges, even though the parties were located outside the U.S. and contacts between them occurred in a foreign country).

[8] *See, e.g.,* Regulation 15.05, which states that, absent an existing agency agreement between a foreign broker and another U.S. person, an FCM is designated as the agent of a foreign broker for purposes of accepting delivery and service issued to the foreign broker by the Commission. The agency requirement similarly applies to any IB who introduces such an account to an FCM.

[9] *Supra,* n. 5. Regulation 1.3(aa) defines ''associated person'' to mean a natural person engaged in the solicitation or acceptance of customer orders, or the supervision of any person or persons so engaged.

note that the prohibition on contact with U.S. customers applies to solicitation as well as acceptance of orders. If a person located outside the U.S. were to solicit prospective customers located in the U.S. as well as outside of the U.S., these exemptions would *not* be available, even if the only customers resulting from the efforts were located outside the U.S.[10]

The Commission's adoption of these rule amendments supersedes prior staff positions on these subjects. Because the rule amendments contain no substantive changes to prior staff letters, no party should be disadvantaged. The new regulations will make these staff positions more accessible and widely understood and obviate the need for individual relief.

IV. Related Matters

A. Administrative Procedure Act

The Administrative Procedure Act generally requires that, before an agency adopts a rule, the agency provide an opportunity for notice and comment thereon. That opportunity is not required, however, when the agency for good cause finds such procedure unnecessary. The Commission has determined to amend Regulation 1.55(f) without opportunity for notice or comment. Notice and comment is unnecessary in this instance because the amendment to Regulation 1.55(f) solely corrects the reference to the citation for ''institutional customer'' in Regulation 1.3.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611, requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[11] The Commission previously has determined that registered FCMs are not small entities for the purpose of the RFA because each FCM has an underlying fiduciary relationship with its customers, regardless of the size of the FCM.[12] The Commission notes that certain foreign persons affected by the changes to the Commission's regulations would be registered as FCMs if not for the exemption provided therein and, as such, would maintain a fiduciary relationship with customers similar to the relationship maintained by each registered FCM. The Commission also previously has determined that registered CPOs are not small entities for the purpose of the RFA.[13]

Other foreign persons affected by the changes would be registered as IBs and CTAs if not for the exemption provided therein. The Commission has stated that it would evaluate within the context of a particular rule whether all or some affected IBs and CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.[14] Although certain foreign IBs and CTAs might be small entities for purposes of the rule, the amended rules will reduce the regulatory burden on all foreign IBs and CTAs.

Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities. No comment was received regarding the impact of these amendments on small businesses.

C. Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995,[15] the Commission submitted a copy of the proposed rule amendments to the Office of Management and Budget for its review. The Commission did not receive any public comments relative to its analysis of paperwork burdens associated with this rulemaking.

D. Costs and Benefits Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its actions before issuing new regulations under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of new regulations or to determine whether the benefits of the regulations outweigh their costs. Rather, Section 15(a) requires the Commission to ''consider the cost and benefits'' of the subject regulations.

The Commission published an analysis of costs and benefits when it proposed the rule amendments that it is now adopting.[16] It did not receive any public comments pertaining to the analysis.

List of Subjects

17 CFR Part 1

Definitions, Registration, Minimum financial and reported requirements, Prohibited transactions in commodity options, Customers' money, securities and property, Miscellaneous.

17 CFR Part 3

Definitions, Foreign futures, Consumer protection, Foreign options, Registration requirements.

17 CFR Part 4

Advertising, Commodity futures, Consumer protection, Recordkeeping and reporting requirements.

17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

17 CFR Part 166

Authorization to trade, Customer protection.

■ In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4(b), 4c and 8a thereof, 7 U.S.C. 2, 6(b), 6c and 12a (1982), and pursuant to the authority contained in 5 U.S.C. 552 and 552b (1982), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, unless otherwise noted.

■ 2. Section 1.3 is amended by adding paragraphs (xx) and (yy) to read as follows:

§ 1.3 Definitions.

* * * * *

(xx) *Foreign Broker.* This term means any person located outside the United States, its territories or possessions who

[10] A person wishing to act as an intermediary for security futures transactions on a U.S. DCM or DTEF may notice register as a securities broker-dealer (''BD'') if it is registered as an FCM or IB and is a member of NFA. *See* Section 15(b)(11) of the Securities Exchange Act (15 U.S.C. 78o(b)(11)) and 17 CFR 240.15b11–1. Foreign brokers taking advantage of the exemption from registration under the Act discussed herein would not qualify for notice registration as BDs. Accordingly, if such foreign brokers want to solicit or accept orders for security futures products traded on U.S. DCMs or DTEFs, they must fully register as BDs in accordance with Section 15(b)(1) of the Securities Exchange Act and regulations thereunder, unless other relief from such registration is available. Foreign brokers may wish to consult the U.S. Securities and Exchange Commission (''SEC'') and/or private counsel regarding how taking advantage of this relief might affect their registration status with the SEC.

[11] 47 FR 18618–18621 (April 30, 1982).

[12] 47 FR 18619–18620.

[13] 47 FR 18619–18620.

[14] 47 FR 18618–18620; *see also* 48 FR at 35276 (August 3, 1983).

[15] Pub. L. 104–13 (May 13, 1995).

[16] 72 FR at 15640 (April 2, 2007).

is engaged in soliciting or in accepting orders only from persons located outside the United States, its territories or possessions for the purchase or sale of any commodity interest transaction on or subject to the rules of any designated contract market or derivatives transaction execution facility and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(yy) *Commodity Interest.* This term means:

(1) Any contract for the purchase or sale of a commodity for future delivery; and

(2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the Act.

■ 3. Section 1.55 is amended by revising paragraph (f) to read as follows:

§ 1.55 Distribution of ''Risk Disclosure Statement'' by futures commission merchants and introducing brokers.

* * * * *

(f) A futures commission merchant or, in the case of an introduced account, an introducing broker, may open a commodity futures account for an ''institutional customer'' as defined in § 1.3(g) without furnishing such institutional customer the disclosure statements or obtaining the acknowledgments required under paragraph (a) of this section §§ 1.33(g) and 1.65(a)(3), and §§ 30.6(a), 33.7(a), 155.3(b)(2), 155.4(b)(2) and 190.10(c) of this chapter.

* * * * *

§ 1.56 [Amended]

■ 4. Section 1.56 is amended by removing and reserving paragraph (a).

PART 3—REGISTRATION

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

Authority: 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23, unless otherwise noted.

§ 3.1 [Amended]

■ 6. Section 3.1 is amended by removing and reserving paragraph (f).

■ 7. Section 3.10 is amended by revising paragraph (c) to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

* * * * *

(c) *Exemption from registration for certain persons.* (1) A person trading solely for proprietary accounts, as defined in § 1.3(y) of this chapter, is not required to register as a futures commission merchant: *Provided*, that such person remains subject to all other provisions of the Act and of the rules, regulations and orders thereunder.

(2)(i) A foreign broker, as defined in § 1.3(xx) of this chapter, is not required to register as a futures commission merchant if it submits any commodity interest transactions executed on or subject to the rules of designated contract market or derivatives transaction execution facility for clearing on an omnibus basis through a futures commission merchant registered in accordance with section 4d of the Act.

(ii) A foreign broker acting in accordance with paragraph (c)(2)(i) of this section is not required to comply with those provisions of the Act and of the rules, regulations and orders thereunder applicable solely to any registered futures commission merchant or any person required to be so registered.

(3)(i) A person located outside the United States, its territories or possessions engaged in the activity of: An introducing broker, as defined in § 1.3(mm) of this chapter; a commodity trading advisor, as defined in § 1.3(bb) of this chapter; or a commodity pool operator, as defined in § 1.3(nn) of this chapter, in connection with any commodity interest transaction made on or subject to the rules of any designated contract market or derivatives transaction execution facility only on behalf of persons located outside the United States, its territories or possessions, is not required to register in such capacity: Provided, that any such commodity interest transaction executed on or subject to the rules of designated contract market or derivatives transaction execution facility is submitted for clearing through a futures commission merchant registered in accordance with section 4d of the Act.

(ii) A person acting in accordance with paragraph (c)(3)(i) of this section remains subject to section 4*o* of the Act, but otherwise is not required to comply with those provisions of the Act and of the rules, regulations and orders thereunder applicable solely to any person registered in such capacity, or any person required to be so registered.

* * * * *

■ 8. Section 3.12 is amended by removing ''or'' at the end of paragraph (h)(1)(ii), removing the period and adding a semi-colon and ''or'' at the end of paragraph (h)(1)(iii)(D), and adding paragraph (h)(1)(iv) to read as follows:

§ 3.12 Regulation of associated persons of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

* * * * *

(h) * * *

(1) * * *

(iv) Engaged in any activity as an associated person, as defined in § 1.3(aa) of this chapter, from a location outside the United States, its territories or possessions, and limits such activities to customers located outside the United States, its territories or possessions.

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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

Authority: 7 U.S.C. 1a, 2, 4, 6(c), 6b, 6c, 6*l*, 6m, 6n, 6o, 12a and 23.

§ 4.10 [Amended]

■ 10. Section 4.10 is amended by removing and reserving paragraph (a).

PART 15—REPORTS—GENERAL PROVISIONS

■ 11. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6(c), 6a, 6c(a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

§ 15.00 [Amended]

■ 12. Section 15.00 is amended by removing and reserving paragraph (g).

PART 166—CUSTOMER PROTECTION RULES

■ 13. The authority citation for part 166 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6b, 6c, 6d, 6g, 6h, 6k, 6l, 6o, 7, 12a, 21, and 23, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

§ 166.1 [Amended]

■ 14. Section 166.1 is amended by removing and reserving paragraph (b).

Dated: November 7, 2007.

By the Commission.

David Stawick,

Secretary of the Commission.

[FR Doc. E7–22110 Filed 11–13–07; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket No. RM06–23–000; Order No. 702]

Critical Energy Infrastructure Information

Issued October 30, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this final rule amending its regulations for gaining access to critical energy infrastructure information (CEII). The final rule reflects comments filed in response to the September 21, 2006 notice seeking public comment on proposed changes to the Commission's CEII rules. The final rule: Modifies non-disclosure agreements; modifies the Commission's process to allow the CEII Coordinator to respond to CEII requests by letter; provides landowners access to alignment sheets for the routes across or in the vicinity of their properties; includes a fee provision; limits the portions of forms and reports the Commission defines as containing CEII; eliminates as a category of documents the Non-Internet Public designation; and provides that the Commission will seek a requester's date and place of birth on a case-by-case basis rather than require that information with every request for CEII. Finally, the request for social security numbers is being eliminated.

DATES: *Effective Date:* The rule will become effective December 14, 2007.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Kaplan, Office of the General Counsel, GC–13, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–8788.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff

1. On September 21, 2006, the Commission issued a Notice of Proposed Rulemaking (NOPR) on its procedures for dealing with critical energy infrastructure information (CEII).[1] After receiving comments in response to the NOPR, the Commission amends and clarifies 18 CFR 388.113 and its CEII process.

Background

2. Shortly after the attacks on September 11, 2001, the Commission began its efforts with respect to CEII.[2] As a preliminary step, the Commission removed from its public files and Internet page documents such as oversized maps that were likely to contain detailed specifications of facilities, and directed the public to use the Freedom of Information Act (FOIA) request process to obtain such information.[3] The Commission established its CEII rules in Order Nos. 630 and 630–A.[4]

3. On the same day as the Commission issued the NOPR in this docket it also issued an instant and final rule that clarified the definition of CEII, required requesters of CEII to submit executed non-disclosure agreements with their requests, and provided that the notice and opportunity to comment on a CEII request would be combined with the notice of release of information.[5] Thus, the current procedures require that each CEII requester file a signed, written request in which he or she provides to the CEII Coordinator detailed information about himself or herself and his or her need for the information, along with an executed non-disclosure agreement. Commission staff verifies and utilizes this information to determine whether to release the CEII to the requester. The current process requires that Commission staff verify each requester when each request is made. This final rule under consideration here reflects the Commission's ongoing commitment to evaluate the effectiveness of the CEII regulations and make changes as necessary.

Summary and Discussion of Comments Received

A. Introduction

4. In the NOPR, the Commission invited comments on the following issues: (1) Annual certification for repeat requesters, (2) execution of non-disclosure agreements by authorized representatives of organizations on behalf of all of the organizations' employees, (3) charging fees, (4) issuing letter responses to CEII requests; (5) providing alignment sheets to landowners for the routes across or in the vicinity of their properties; (6) limiting the portions of forms and reports the Commission now defines as containing CEII; and (7) eliminating the Non-Internet Public (NIP) designation. The Commission received thirteen responses to the NOPR.[6] While some of the comments address the specific questions raised by the Commission, many of the comments relate to other aspects of the CEII process. Commenters raise issues regarding verification of requesters and the use of non-disclosure agreements and how to ensure compliance with such agreements. In addition, at least one commenter raises concerns about CEII claims in the context of market-based rate filings, and how the typical CEII response times makes it difficult to participate in such proceedings. Several commenters raise issues regarding state agency requests for CEII. These issues are discussed below.

B. Annual Certification for Repeat Requesters

5. Several commenters support the Commission's proposal to allow an annual certification for repeat requesters.[7] AGA states that expediting access to frequent requesters is appropriate, particularly since many parties, such as local distribution companies, need repeated access to CEII to evaluate proposed certificate or rate and tariff-related proposals.[8] MidAmerican and Williston Basin both support annual certification for repeat requesters provided that the submitter of the CEII is given notice of each request.[9] Similarly, INGAA requests that the Commission clarify that submitters

[1] *Critical Energy Infrastructure Information,* 71 FR 58325 (October 3, 2006), FERC Stats. & Regs. ¶ 32,607 (2006).

[2] *See Statement of Policy on Treatment of Previously Public Documents,* 66 FR 52917 (Oct. 18, 2001), 97 FERC ¶ 61,130 (2001).

[3] The FOIA process is specified in 5 U.S.C. 552 and the Commission's regulations at 18 CFR 388.108.

[4] *Critical Energy Infrastructure Information,* Order No. 630, 68 Fed. Reg. 9857 (Mar. 3, 2003), FERC Stats. & Regs. ¶ 31,140 (2003); *order on reh'g,* Order No. 630–A, 68 FR 46456 (Aug. 6, 2003), FERC Stats. & Regs. ¶ 31,147 (2003).

[5] *See Critical Energy Infrastructure Information,* Order No. 683, 71 FR 58273 (October 3, 2006), FERC Stats. & Regs. ¶ 31,228 (2006) (September 21 Order); *order on reh'g,* Order No. 683–A, 72 FR 18572 (April 13, 2007) (Order No. 683–A).

[6] *See* Appendix A for a list of commenters. In addition to the submitted comments, in the Commission's final rule on Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities, the Commission stated that copies of the comments submitted by Western Energy Board, NARUC, and California Resources will be placed in the official record in Docket No. RM06–23–000, and will be addressed in this proceeding. *See Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities,* 71 FR 69440 (Dec. 1, 2006); FERC Stats. & Regs. ¶ 31,234 (2006).

[7] Department of the Interior at p. 3, APPA and TAPS at pp. 5–6, AGA at p. 3, and EEI Reply Comments at p. 5.

[8] AGA at p. 3.

[9] MidAmerican at pp. 2–3 and Williston Basin at p. 3.

of CEII receive notice of subsequent requests by certified requesters.

6. Although several commenters generally support eliminating redundant requirements, they contend that an annual certification period that does not require a non-disclosure agreement for each requester is not appropriate in all instances.[10] The Department of the Interior suggests that once the CEII Coordinator determines that a requester does not pose a security risk, there should be some mechanism to consider changed circumstances.[11] In addition, Dominion contends that the Commission lacks meaningful sanctions for violations of a non-disclosure agreement.[12] EEI asserts that the Commission's proposal does not clearly state that the first non-disclosure agreement signed by a requester in a given year will apply to all subsequent releases of CEII in that year to that requester.[13]

7. The California Agencies contend that the NOPR relaxes the required showing of a particular need for CEII for a twelve-month period.[14]

Commission Determination

8. The Commission takes this opportunity to clarify several aspects of its CEII procedures. First, the Commission encourages filers to negotiate with requesters to provide data directly to the requesters, where appropriate. Second, if a CEII requester receives an annual certification, it simply means that the Commission does not have concerns about releasing CEII to that individual. In response to the concerns raised by MidAmerican, Williston Basin, and INGAA, such an annual certification does not eliminate the current requirement to notify the submitter of CEII and give the submitter an opportunity to comment on all requests for CEII.[15] In answer to the California Agencies' concerns, as the Commission explained in the NOPR, with each request, the requester will be required to provide detailed information as to why he or she needs the CEII.[16] In response to EEI's concern, the Commission clarifies that the executed non-disclosure agreement originally submitted by the requester will apply to all CEII the requester receives from the Commission that year. In answer to the Department of the Interior's concern for a mechanism to consider changed circumstances, the Commission will modify the sample non-disclosure agreements posted on its Web site to require that a requester notify the Commission of any change in the information the requester originally provided, *e.g.*, a change in employment status.[17]

9. The commenters' concerns regarding the Commission's ability to enforce the terms of the non-disclosure agreements are unwarranted. The Commission will address any violations and utilize sanctions, where appropriate, including civil penalties and criminal referrals. To date, no violations of non-disclosure agreements have been alleged against those granted access to CEII.

C. Authorized Representative of an Organization To Execute a Non-Disclosure Agreement

10. A few commenters generally support allowing an authorized representative of an organization to execute a non-disclosure agreement on behalf of the organization's employees.[18] Williston Basin requests that the submitters of the CEII receive notice of all requests for release and have an opportunity to comment, *i.e.*, Williston Basin requests that the Commission clarify that this current practice will continue.[19]

11. Several commenters oppose allowing a single representative to execute a non-disclosure agreement on behalf of an entire organization.[20] A couple of commenters contend that certifying all employees of a requesting organization is too broad as it would allow access to CEII by individuals who may not need to review it.[21] Similarly, INGAA states that the NOPR proposal that a ''member or employee of an organization'' may obtain CEII on behalf of an organization is too broad and undefined.[22] The Allegheny Energy Companies and Dominion express concerns regarding whether a representative could bind an organization.[23]

Commission Determination

12. After reviewing the comments received, the Commission is making the following changes to its proposal in the NOPR. First, all individuals in an organization with access to CEII must be named in the non-disclosure agreement and must also execute the non-disclosure agreement. Second, any subsequent additions to or deletions of names on the non-disclosure agreement must be sent to the Commission as well as to the submitter of the CEII. Further, the revised non-disclosure agreement should be executed by the newly-named individuals. If there is no written opposition within five (5) days of notifying the CEII Coordinator and the submitter concerning the addition of any newly-named individuals, the CEII Coordinator will issue a standard notice accepting the additions of names to the non-disclosure agreement. If there is a timely opposition from the submitter, the CEII Coordinator will issue a formal determination addressing the merits of such opposition. These changes attempt to ensure that all persons with access to CEII acknowledge their responsibilities while avoiding multiple filings from each organization.

D. Fee Provision

13. The Commission sought comments on its proposal to extend the fee schedule used for FOIA requests to CEII requests. One commenter, MidAmerican, states that it is appropriate to charge fees for processing CEII requests.[24] MidAmerican further states that, provided the Commission's administrative costs for processing CEII requests are similar to the costs of processing FOIA requests, it supports the Commission's proposal.

14. As explained in the NOPR, Commission staff expends valuable time and resources searching, reviewing, and copying documents responsive to CEII requests. The administrative costs of processing CEII requests are similar to the costs of processing FOIA requests. Therefore, the Commission's regulations will be modified to extend the FOIA fee schedule to CEII requests.

E. Responding to CEII Requests With Letters

15. While most commenters do not address the Commission's proposal to issue letters rather than delegated orders in response to CEII requests, one commenter supports the proposal[25] and two commenters oppose it.[26] EEI asserts

[10] Dominion at p. 6 and EEI Reply Comments at p. 5.

[11] Department of the Interior at p. 3.

[12] Dominion at p. 4.

[13] EEI at pp. 10–11.

[14] California Agencies at p. 9.

[15] *See* 18 CFR 388.112.

[16] NOPR at P 5.

[17] The Commission clarifies that it will continue to use the five types of NDAs posted on its Web site, *http://www.ferc.gov,* with the modifications discussed above. The five types of NDAs posted on the Commission's Web site are: (1) A general NDA, (2) a media NDA, (3) a state agency employee NDA, (4) a consultant NDA, and (5) a Federal Agency Acknowledgement and Agreement.

[18] Williston Basin at p. 3, APPA and TAPS at p. 5, and EEI Reply Comments at p. 5.

[19] Williston Basin at p. 3.

[20] SCE at p. 2, AGA at p. 4, Dominion at p. 8, INGAA at pp. 2–3, MidAmerican at p. 3, and EEI at p. 10.

[21] AGA at p. 4 and MidAmerican at pp. 3–4.

[22] INGAA at p. 3.

[23] Allegheny at p. 7, Dominion at pp. 5–6.

[24] MidAmerican at p. 4.

[25] MidAmerican at p. 2.

[26] SCE at pp. 3–4; EEI at pp. 5–6.

that the NOPR ''forc[es] submitters who oppose release to pursue complex 'reverse FOIA' litigation rather than the much more straight forward rehearing request and appellate review.'' [27] SCE contends that the Commission's CEII regulations were specifically designed to protect security and safety information, which is different from other confidential information. Therefore, SCE asserts that parties should not be denied remedies, including the right to rehearing, if they believe a serious security risk is posed by the release of CEII.[28]

Commission Determination

16. In response to EEI's observation that those who object to the CEII Coordinator's and General Counsel's decisions concerning access to CEII will have to seek judicial rather than Commission remedies, we take this opportunity to clarify and reiterate that a CEII Coordinator's decision denying access to CEII may be appealed by a requester to the General Counsel as a FOIA appeal pursuant to section 388.110. That is the process contemplated in the Administrative Procedure Act [29] for seeking information under the FOIA and there is no reason to have a different process for CEII requests.[30]

17. SCE is mistaken that the Commission has separate regulations for CEII because the information is ''more sensitive than other non-public information.'' [31] To the contrary, as CEII, by definition, is exempt from disclosure pursuant to FOIA,[32] the Commission developed its CEII regulations as a disclosure mechanism to provide CEII to those with a legitimate need for it.[33]

F. Landowners' Access to Alignment Sheets

18. In the NOPR, the Commission proposed to grant access to alignment sheets filed pursuant to section 380.12(c)(3)(ii) to landowners for routes across or in the vicinity of their properties.[34] SCE does not oppose the proposal provided that the landowners receive only those sheets related to their properties and the alignment sheets retain the CEII designation.[35] Several commenters oppose this proposal and allege that granting access should be accompanied by a non-disclosure agreement or some other restriction on the publication of the information.[36] EEI asserts that the Commission's proposal is overbroad that there must be a limit on access such as to those showing a substantial property nexus to the project.[37] INGAA suggests that the Commission specify which landowners may obtain detailed alignment sheets by utilizing the definition of landowners entitled to notice under section 157.6(d)(2) [38] of the Commission's regulations.[39] Dominion and Williston Basin state that there is some ambiguity concerning the proper classification of alignment sheets as CEII seeks clarification of the type of information found in alignment sheets that could be considered CEII.[40] Williston Basin also seeks clarification on whether companies will be required to post the alignment sheets on their Web sites.[41]

Commission Determination

19. The Commission notes that alignment sheets can be labeled CEII only if they contain qualifying detailed engineering information. Alignment sheets often do not contain such detail, and, therefore, will simply be public information. The Commission clarifies its proposal that, for alignment sheets that do contain CEII, each landowner access only the alignment sheet for the limited portion of a project that would affect his or her land and the adjacent parcel on each side (or those on the same alignment sheet). The Commission understands that a landowner may want to discuss the proposed project with other family members, with legal counsel, or others. The Commission will not limit such discussions by requiring a landowner to sign a non-disclosure agreement. The Commission further clarifies that it does not require that companies post alignment sheets on their Web sites yet acknowledges that companies may choose to do so based on their public participation plans.

20. The Commission accepts INGAA's proposal to use the definition of landowner at 18 CFR 157.6(d)(2) as the means of identifying which landowners may obtain alignment sheets containing CEII without executing non-disclosure agreements.

G. Forms Containing CEII

21. In the NOPR, the Commission provided guidelines for labeling specific documents submitted to the Commission as CEII. There were several comments regarding the guidelines.[42] APPA and TAPS support the guidance.[43] MidAmerican suggests that the Commission incorporate the guidelines into specific filing instructions for documents regularly filed with the Commission.[44] INGAA and Williston Basin both note that the Commission did not include Exhibit G–II, which contains flow diagram data, in its guidelines for identifying CEII.[45] They contend that this exhibit includes information that may be useful to those with intent to do harm and request that the Commission include Exhibit G–II in its guidelines as a document that contains CEII.[46]

Commission Determination

22. The Commission clarifies that Exhibit G–II may contain CEII. Further, if an applicant believes that information in Exhibit G–II meets the definition of CEII, then the relevant part of the exhibit should be filed as CEII. Therefore, the Commission adopts the guidelines proposed in the NOPR with the addition of the Exhibit G–II as a document that may contain CEII.[47]

H. Elimination of the Non-Internet Public Category

23. Two commenters support the Commission proposal to eliminate the NIP category of documents.[48] Dominion states that abolishing NIP category will be more efficient and will make the information more accessible to interested parties. AGA asserts that the Commission's proposal to eliminate NIP ''appears to reflect the reality of the public's continued access to energy infrastructure data from sources beyond the Commission's control.'' [49]

24. Several commenters oppose the elimination of the NIP designation claiming that elimination will make it

[27] EEI at p. 5. EEI contends that the September 21 Order's combination of the notice and opportunity to comment with the notice of release eliminates due process rights of CEII submitters by reducing the notice period. The Commission addressed these concerns in Order No. 683–A at P 9–11.

[28] SCE at pp. 3–4.

[29] 5 U.S.C. Subchapter II.

[30] Consistent with FOIA procedures, a CEII determination that withholds information will explain the appeal rights of the CEII requester.

[31] SCE at p. 3.

[32] In its comments, AGA states that there appears to be the potential for requesters to circumvent CEII protection by filing FOIA requests. AGA at pp. 5–6. But in the event documents containing CEII are deemed responsive to FOIA requests, they are exempt from mandatory disclosure pursuant to Exemption 7(F). *See* 5 U.S.C. § 552 (b)(7)(F). Therefore, CEII can only be obtained through the CEII process.

[33] *See, e.g.,* Order No. 630 at P 16.

[34] NOPR at P 13.

[35] SCE at p. 4.

[36] INGAA at pp. 3–4, AGA at pp. 4–5, Dominion at pp. 8–9, and EEI at p. 10.

[37] EEI at p. 10.

[38] 18 CFR 157.6(d)(2) (2007).

[39] INGAA at pp. 3–4.

[40] Dominion at p. 9 and Williston Basin at p. 4.

[41] Williston Basin at p. 4.

[42] APPA and TAPS at pp. 6–7, MidAmerican at p. 4, INGAA at pp. 6–7, and Williston Basin at 6.

[43] APPA and TAPS at pp. 6–7.

[44] MidAmerican at p. 4.

[45] INGAA at pp. 6–7 and Williston Basin at p. 6.

[46] *Id.*

[47] NOPR at P 10–15.

[48] Dominion at p. 5 and AGA at p. 3.

[49] AGA at p. 3.

easier for individuals with malicious intent to obtain locational information.[50] Further, these commenters contend that the fact that such information is publicly available from other sources is not a valid reason to abolish the NIP designation. Rather, they contend that the Commission should set an example by retaining the NIP category to encourage other sources to be more cautious in their treatment of sensitive information. Before abolishing the NIP designation, NHA suggests that the Commission ''make a last attempt to resolve the confusion through the issuance of additional guidance or outreach[.]'' [51]

Commission Determination

25. The Commission does not agree that NIP should be retained. Much of the information now designated as NIP is easily available on-line from other sources, such as the United States Geological Survey or commercial mapping firms. As such, retaining the NIP designation does not enhance security or safety. Further, the information is publicly available from the Commission's Public Reference Room. Withholding this information from the Commission's Web site may be perceived as a hindrance to individuals seeking to access public information.

26. Regarding the approximately 5,400 NIP documents currently in the Commission's e-library records, the NOPR proposed that these documents simply retain the NIP designation in e-library.[52] The Commission has determined that this will create confusion. Therefore, the Commission will provide a sixty-day time period from the date this order is issued in which previous submitters of NIP may specifically identify any documents they believe may now qualify for CEII protection. After the sixty-day period, all NIP documents not identified as CEII will be made publicly available.

27. Submitters of NIP who believe that the documents contain CEII should file requests with the Secretary in this docket (RM06–23–000) within sixty-days requesting that the designations be changed. Such requests should identify the specific documents by accession numbers and provide an accurate description of the documents.

I. State and Local Agencies' Comments

28. Several state agencies, organizations of states, and a county government requested that state agencies and those similarly situated be allowed to obtain CEII outside the normal process because they are entrusted with the public safety of their citizens.[53] EEI contends that such agencies should not be allowed special access to CEII.[54]

Commission Determination

29. The Commission will not allow state agencies and local governments special access to CEII on a generic basis because such entities (unlike other federal agencies) may not be required to maintain the documents in the way the Commission maintains them. Moreover, state FOIA laws vary, and generic access to CEII for state agencies and local governments may not sufficiently protect CEII from release pursuant to state law. Nonetheless, the Commission will utilize a case-by-case approach that may permit states and other governmental entities to enter into memoranda of understanding with the Commission to simplify access to CEII while ensuring appropriate protection of CEII.

J. A Requestor Shall Submit a Date and Place of Birth Upon Request; Social Security Numbers Are Not Needed

30. Currently, section 388.113(d) requires that a requester provide his or her date and place of birth in each request for CEII. Experience in processing requests for CEII since issuance of Order No. 630 has shown that the legitimacy of a particular requester can usually be determined from information other than the requester's date and place of birth. However, occasionally, a date and place of birth are needed to assess the legitimacy of a requester. Therefore, we are revising section 388.113(d) to obtain that information on a case-by-case basis rather than obtain it in every instance. When needed, the CEII Coordinator will ask the requester to provide his or her date and place of birth to process the request for CEII.

31. In a similar vein, the Commission will revise section 388.113(d) to eliminate the request for voluntary submission of social security numbers. Again, experience has shown that social security numbers are not needed to determine the legitimacy of requesters.

32. These revisions will minimize privacy concerns regarding the Commission's collection and maintenance of personally identifiable information without compromising security regarding the release of CEII.

K. Miscellaneous Issues

33. The Department of the Interior states that the NOPR offers a more efficient process for handling CEII requests. Nonetheless, the Department of the Interior contends that it needs ready access to such information.[55] In Order No. 662, the Commission modified its CEII regulations to simplify federal agencies' access to CEII.[56] Pursuant to section 388.113(d)(2) of the Commission's regulations, ''An employee of a federal agency acting within the scope of his or her federal employment may obtain CEII directly from Commission staff without following the procedures outlined in paragraph (d)(3) of this section.''

34. APPA and TAPS state that the time frame for requesting, obtaining, and reviewing CEII is insufficient in market-based rate proceedings that routinely provide a notice period of 21 days.[57] As the Commission explained in Order No. 662, it is willing to consider on a case-by-case basis requests for extensions of time to prepare protests to market-based rate filings where an intervenor demonstrates that it needs additional time to obtain and analyze CEII.[58] The Commission further encourages the parties in cases in which CEII is filed to promptly negotiate a protective order in the proceeding.[59] Moreover, the Commission, in its NOPR regarding market-based rates for wholesale sales of electric energy, capacity and ancillary services by public utilities, sought comments on whether CEII designations remain a concern since issuance of Order No. 662.[60] In the market-based rate Final Rule, the Commission adopted procedures, now codified as section 37.35(f) of the Commission's regulations, to ensure that intervenors have prompt access to relevant information for which privileged treatment, including CEII, is claimed.[61]

[50] EEI at pp. 9–10, Williston Basin at pp. 4–5, and INGAA at pp. 4–6.

[51] NHA at p. 2.

[52] A list of these documents may be obtained by performing an advanced search on e-library, selecting only ''Non-Internet Public'' in the ''Availability'' section.

[53] California State Agencies at pp. 8–10, County of Butte at pp. 2–3, WIEB and CREPC at pp. 7–8, NARUC at p. 12, and California Resources Agency at pp. 1–2.

[54] EEI Reply Comments at p. 6.

[55] Department of the Interior at p. 2.

[56] *See Critical Energy Infrastructure Information*, Order No. 662, 70 FR 37031 (June 28, 2005), FERC Stats. & Regs. ¶ 31,189 (2005) (Order No. 662).

[57] APPA and TAPS at pp. 4–5.

[58] Order No. 662 at P 25.

[59] *Id.*

[60] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 71 FR 33102, FERC Stats. & Regs. ¶ 32,602 (2006) (MBR NOPR).

[61] *See also Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary*

Continued

35. In the NOPR, the Commission stated that it ''retains its concern for CEII filing abuses and will take action against applicants or parties who knowingly misfile information as CEII, including rejection of an application where information is mislabeled as CEII.'' [62] While some commenters welcome the Commission's reminder regarding filing abuses,[63] several commenters express concern.[64] Dominion requests that the Commission clarify that errors in classification based upon a reasonable, good faith interpretation of the Commission's regulations will not result in a rejection of a filing.[65] Dominion and NHA both recommend that the Commission reject a license application only as a measure of last resort and only for the most egregious of cases.[66] NHA further recommends continued outreach to the industry to reduce designation errors.[67] EEI urges the Commission to notify the submitter of the information if the Commission believes that he or she has improperly labeled information as CEII or if the submitter has failed to provide a justification for treating the information as CEII.[68]

36. The Commission has continuously sought to dissuade applicants from carelessly using the CEII designation because such misuse prevents interested parties and other members of the public with a legitimate need from accessing information in a timely manner. The Commission stated as a reminder in the NOPR that applications may be rejected for failing to comply with the Commission's regulations at 18 CFR 388.112(b)(1).[69] As the Commission explained in the Order No. 683–A, ''[i]n instances in which documents are rejected for filing, the rejection is usually without prejudice and no substantive rights are lost. The application must merely be refiled in accordance with the procedural requirements.'' [70]

37. The Commission agrees that continued outreach will help to diminish designation errors. To this end, the Secretary of the Commission will continue to post filing guidance on the Commission's Web site.

38. The Commission will also revise section 388.112(d) to reflect an internal procedural change. Section 388.112(d) currently provides that, when a FOIA or CEII request is received for information that was submitted to the Commission with a claim of privilege or CEII status, or when the Commission is considering release of such information, the Commission official who will determine whether to release the information will notify the submitter and provide an opportunity to comment. But in many instances, it is practical for an individual other than the official responsible for determining whether to release the information to provide such notice. Therefore, the Commission has decided to revise section 388.112(d) of its regulations to provide that any appropriate official may provide notice to the submitter.

Information Collection Statement

39. The Office of Management and Budget's (OMB's) regulations require that OMB approve certain information collection requirements imposed by agency rule.[71] This final rule does not impose any additional information collection requirements. Therefore, the information collection regulations do not apply to this final rule.

Environmental Analysis

40. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[72] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusions are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[73] This rule is procedural in nature and therefore falls under this exception; consequently, no environmental consideration is necessary.

Regulatory Flexibility Act Certification

41. The Regulatory Flexibility Act of 1980 [74] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect. The Commission certifies that this rule would not have such an impact on small entities.

Document Availability

42. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

43. From FERC's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

44. User assistance is available for eLibrary and the FERC's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.referenceroom@ferc.gov).*

Effective Date

45. These regulations are effective December 14, 2007.

46. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

List of Subjects in 18 CFR Part 388

Confidential business information, Freedom of information.

By the Commission.

Kimberly D. Bose,

Secretary.

■ In consideration of the foregoing, the Commission amends part 388, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 388—INFORMATION AND REQUESTS

■ 1. The authority citation for part 388 continues to read as follows:

Authority: 5 U.S.C. 301–305, 551, 552 (as amended), 553–557; 42 U.S.C. 7101–7352.

Services by Public Utilities, Order No. 697, 119 FERC ¶ 61,295 (June 21, 2007) (market-based rate Final Rule).

[62] NOPR at P 16.

[63] APPA and TAPS at p. 6 and AGA at p. 3.

[64] NHA at pp. 1–2, Dominion at pp. 10–12, and EEI at pp. 8–9.

[65] Dominion at p. 11.

[66] Dominion at p. 12 and NHA at p. 2.

[67] *Id.*

[68] EEI at p. 9.

[69] NOPR at P 16–17.

[70] Order No. 683–A, P 12.

[71] 5 CFR 1320.12.

[72] Order No. 486, *Regulations Implementing the National Environmental Policy Act,* 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[73] 18 CFR 380.4(a)(2)(ii).

[74] 5 U.S.C. 601–612.

■ 2. Section 388.109 is amended by revising paragraph (b) to read as follows:

§ 388.109 Fees for record requests.

* * * * *

(b) *Fees for records not available through the Public Reference Room (FOIA or CEII requests).* The cost of duplication of records not available in the Public Reference Room will depend on the number of documents requested, the time necessary to locate the documents requested, and the category of the persons requesting the records. The procedures for appeal of requests for fee waiver or reduction are set forth in § 388.110.

* * * * *

■ 3. Section 388.112 is amended by removing paragraph (a)(3) and revising paragraphs (b) and (d) to read as follows:

§ 388.112 Requests for special treatment of documents submitted to the Commission.

* * * * *

(b) Procedures. A person claiming that information warrants special treatment as CEII or privileged must file:

(1) A written statement requesting CEII or privileged treatment for some or all of the information in a document, and the justification for special treatment of the information; and

(2) The following, as applicable:

(i) An original plus the requisite number of copies of the public volume filed and marked in accordance with instructions issued by the Secretary;

(ii) An original plus two copies of the CEII volume, if any, filed and marked in accordance with instructions issued by the Secretary; and

(iii) An original only of the privileged volume, if any, filed and marked in accordance with instructions issued by the Secretary.

* * * * *

(d) Notification of request and opportunity to comment. When a FOIA or CEII requester seeks a document for which privilege or CEII status has been claimed, or when the Commission itself is considering release of such information, the Commission official who will decide whether to release the information or any other appropriate Commission official will notify the person who submitted the document and give the person an opportunity (at least five calendar days) in which to comment in writing on the request. A copy of this notice will be sent to the requester.

* * * * *

■ 4. Section 388.113 is amended by redesignating paragraph (d)(3) as paragraph (d)(4), revising newly designated paragraph (d)(4), and adding new paragraphs (d)(3) and (e) to read as follows:

§ 388.113 Accessing critical energy infrastructure information.

* * * * *

(d) * * *

(3) A landowner whose property is crossed by or in the vicinity of a project may receive detailed alignment sheets containing CEII directly from Commission staff without submitting a non-disclosure agreement as outlined in paragraph (d)(4) of this section. A landowner must provide Commission staff with proof of his or her property interest in the vicinity of a project.

(4) If any other requester has a particular need for information designated as CEII, the requester may request the information using the following procedures:

(i) File a signed, written request with the Commission's CEII Coordinator. The request must contain the following: Requester's name (including any other name(s) which the requester has used and the dates the requester used such name(s)), title, address, and telephone number; the name, address, and telephone number of the person or entity on whose behalf the information is requested; a detailed statement explaining the particular need for and intended use of the information; and a statement as to the requester's willingness to adhere to limitations on the use and disclosure of the information requested. A requester shall provide his or her date and place of birth upon request, if it is determined by the CEII Coordinator that this information is necessary to process the request. Unless otherwise provided in Section 113(d)(3), a requester must also file an executed non-disclosure agreement.

(ii) A requester who seeks the information on behalf of all employees of an organization should clearly state that the information is sought for the organization, that the requester is authorized to seek the information on behalf of the organization, and that all the requesters agree to be bound by a non-disclosure agreement that must be executed by and will be applied to all individuals who have access to the CEII.

(iii) After the request is received, the CEII Coordinator will determine if the information is CEII, and, if it is, whether to release the CEII to the requester. The CEII Coordinator will balance the requester's need for the information against the sensitivity of the information. If the requester is determined to be eligible to receive the information requested, the CEII Coordinator will determine what conditions, if any, to place on release of the information.

(iv) If the CEII Coordinator determines that the CEII requester has not demonstrated a valid or legitimate need for the CEII or that access to the CEII should be denied for other reasons, this determination may be appealed to the General Counsel pursuant to § 388.110 of this Chapter. The General Counsel will decide whether the information is properly classified as CEII, which by definition is exempt from release under FOIA, and whether the Commission should in its discretion make such CEII available to the CEII requester in view of the requester's asserted legitimacy and need.

(v) Once a CEII requester has been verified by Commission staff as a legitimate requester who does not pose a security risk, his or her verification will be valid for the remainder of that calendar year. Such a requester is not required to provide detailed information about him or herself with subsequent requests during the calendar year. He or she is also not required to file a non-disclosure agreement with subsequent requests during the calendar year because the original non-disclosure agreement will apply to all subsequent releases of CEII.

(vi) If an organization is granted access to CEII as provided by paragraph (d)(4)(iii) of this section, and later seeks to add additional individuals to the non-disclosure agreement, the names of these individuals must be sent to the CEII Coordinator with certification that notice has been given to the submitter. Any newly added individuals must execute a supplement to the original non-disclosure agreement indicating their acceptance of its terms. If there is no written opposition within five (5) days of notifying the CEII Coordinator and the submitter concerning the addition of any newly-named individuals, the CEII Coordinator will issue a standard notice accepting the addition of names to the non-disclosure agreement. If the submitter files a timely opposition with the CEII Coordinator, the CEII Coordinator will issue a formal determination addressing the merits of such opposition.

(e) Fees for processing CEII requests will be determined in accordance with 18 CFR 388.109.

Note: The following appendix will not appear in the Code of Federal Regulations.

APPENDIX A

LIST OF COMMENTERS

Abbreviation	Name
Allegheny	Allegheny Power and Allegheny Energy Supply Company, L.L.C.
AGA	American Gas Association.
APPA and TAPS	American Public Power Association and Transmission Access Policy Study Group.
Butte County	Butte County, California.
California Resources	California Resources Agency.
California State Agencies	California Coastal Commission, California Energy Commission, California Electricity Oversight Board, and California State Lands Commission.
Dominion	Dominion Transmission Inc., Dominion Cove Point, LNG, LP, and Dominion South Pipeline Company, LP.
EEI	Edison Electric Institute.
INGAA	Interstate Natural Gas Association of America.
MidAmerican	MidAmerican Energy Company.
NARUC	National Association of Regulatory Utility Commissioners.
NHA	National Hydropower Association.
SCE	Southern California Edison Company.
Western Energy Board	Western Interstate Energy Board and Committee on Regional Electric Power Cooperation.
Williston Basin	Williston Basin Interstate Pipeline Company.
Department of the Interior	United States Department of the Interior.

[FR Doc. E7–22141 Filed 11–13–07; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for IDEXX Pharmaceuticals, Inc.

DATES: This rule is effective November 14, 2007.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: IDEXX Pharmaceuticals, Inc., 4249–105 Piedmont Pkwy., Greensboro, NC 27410, has informed FDA of a change of address to 7009 Albert Pick Rd., Greensboro, NC 27409. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect the change.

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 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1) revise the entry for ''IDEXX Pharmaceuticals, Inc.''; and in the table in paragraph (c)(2) revise the entry for ''065274'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* *
IDEXX Pharmaceuticals, Inc., 7009 Albert Pick Rd., Greensboro, NC 27409.	065274
* * *	* *

(2) * * *

Drug labeler code	Firm name and address
* * *	* *
065274	IDEXX Pharmaceuticals, Inc., 7009 Albert Pick Rd., Greensboro, NC 27409
* * *	* *

Dated: November 6, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–22210 Filed 11–13–07; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Chlortetracycline Powder

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 Fort Dodge Animal Health, Division of Wyeth Holdings Corp. The supplemental NADA provides for label revisions for chlortetracycline soluble powder.

DATES: This rule is effective November 14, 2007.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl.,

Rockville, MD 20855, 301–827–7571, e-mail: *joan.gotthardt@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Division of Wyeth Holdings Corp., P.O. Box 1339, Fort Dodge, IA 50501, filed a supplement to NADA 65–440 for AUREOMYCIN (chlortetracycline) Soluble Powder Concentrate, approved for oral use in medicated drinking water of chickens, growing turkeys, swine, calves, beef cattle, and nonlactating dairy cattle for the control and/or treatment of various bacterial diseases. The supplemental NADA provides for label revisions. The supplemental application is approved as of October 18, 2007, and the regulations are amended in 21 CFR 520.445b to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under § 25.33(a)(1) 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 Parts 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. In § 520.445b, revise paragraph (b)(2) and add paragraph (d)(5) to read as follows:

§ 520.445b Chlortetracycline powder.

* * * * *

(b) * * *

(2) No. 053501 for use as in paragraph (d)(5) of this section.

* * * * *

(d) * * *

(5) Use in a drench or drinking water as follows:

(i) *Chickens*—(A) *Amount*. 200 to 400 mg/gal, for 7 to 14 days.

(*1*) *Indications for use*. Control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

(*2*) *Limitations*. Prepare fresh solution daily; use as the sole source of chlortetracycline; do not use for more than 14 consecutive days; do not use in laying chickens; do not administer to chickens within 24 hours of slaughter.

(B) *Amount*. 400 to 800 mg/gal, for 7 to 14 days.

(*1*) *Indications for use*. Control of chronic respiratory disease (CRD) and air-sac infections caused by *M. gallisepticum* and *E. coli* susceptible to chlortetracycline.

(*2*) *Limitations*. As in paragraph (d)(5)(i)(A)(*2*) of this section.

(C) *Amount*. One thousand mg/gal, for 7 to 14 days.

(*1*) *Indications for use*. Control of mortality due to fowl cholera caused by Pasteurella multocida susceptible to chlortetracycline.

(*2*) *Limitations*. As in paragraph (d)(5)(i)(A)(*2*) of this section.

(ii) *Growing Turkeys*—(A) *Amount*. 400 mg/gal, for 7 to 14 days.

(*1*) *Indications for use*. Control of infectious synovitis caused by Mycoplasma synoviae susceptible to chlortetracycline.

(*2*) *Limitations*. Prepare fresh solution daily; use as the sole source of chlortetracycline; do not use for more than 14 consecutive days; do not administer to growing turkeys within 24 hours of slaughter.

(B) *Amount*. 25 mg/lb body weight daily, for 7 to 14 days.

(*1*) *Indications for use*. Control of complicating bacterial organisms associated with bluecomb (transmissible enteritis, coronaviral enteritis) susceptible to chlortetracycline.

(*2*) *Limitations*. As in paragraph (d)(5)(ii)(A)(*2*) of this section.

(iii) *Swine*—(A) *Amount*. 10 mg/lb body weight daily, for 3 to 5 days.

(B) *Indications for use*. Control and treatment of bacterial enteritis (scours) caused by *E. coli* and Salmonella spp., and bacterial pneumonia associated with Pasteurella spp., *A. pleuropneumoniae*, and *Klebsiella* spp. susceptible to chlortetracycline.

(C) *Limitations*. Prepare fresh solution daily; use as the sole source of chlortetracycline; do not use for more than 5 days; do not administer to swine within 24 hours of slaughter.

(iv) *Calves, beef cattle, and nonlactating dairy cattle*—(A) *Amount*. 10 mg/lb body weight daily in divided doses, for 3 to 5 days.

(B) *Indications for use*. Control and treatment of bacterial enteritis (scours) caused by Escherichia coli and Salmonella spp., and bacterial pneumonia associated with Pasteurella spp., *Histophilus* spp., and *Klebsiella* spp. susceptible to chlortetracycline.

(C) *Limitations*. Prepare fresh solution daily; use as a drench; use as the sole source of chlortetracycline; do not use for more than 5 days; do not administer to cattle within 24 hours of slaughter; do not use in lactating dairy cattle; do not administer this product with milk or milk replacers; administer 1 hour before or 2 hours after feeding milk or milk replacers; a withdrawal period has not been established in preruminating calves; do not use in calves to be processed for veal.

Dated: November 2, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–22261 Filed 11–13–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–HA–0118]

32 CFR Part 199

TRICARE, Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Coverage of Physician Assistant Services

AGENCY: Department of Defense.

ACTION: Administrative correction.

SUMMARY: This action corrects the reference to a re-designated paragraph within this part regarding the allowable charge for physician assistant services. This document is published to improve the accuracy of 32 CFR part 199.

DATES: *Effective Dates:* November 14, 2007.

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

FOR FURTHER INFORMATION CONTACT: Michael Kottyan, Office of Medical Benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676–3520.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on August 1, 1990 (55 FR 31179) provided the authority for CHAMPUS payment of services rendered by physician assistants (PA) and included a reference to a paragraph elsewhere in this part. Subsequent actions re-designated that paragraph. This action

provides the correct designation of the paragraph being referenced.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

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

PART 199—[AMENDED]

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

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

■ 2. Section 199.6(c)(3)(iii)(H) is amended by revising ''199.14(g)(1)(iii)'' to read ''199.14(j)(1)(ix)''.

■ 3. Paragraph 199.14(j) is amended by revising ''provers'' to read ''providers''.

Dated: November 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–5624 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R01–OAR–2005–TR–0001; A–1–FRL–8491–7]

Approval and Promulgation of Air Quality Implementation Plans; Mohegan Tribe of Indians of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a Tribal Implementation Plan (TIP) submitted by the Mohegan Tribe of Indians of Connecticut. The TIP establishes an enforceable cap on nitrogen oxide emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. This action is intended to help attain the National Ambient Air Quality Standards (NAAQS) for ground-level ozone. This action is being taken in accordance with the Clean Air Act.

DATES: *Effective Date:* This rule is effective on December 14, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2005–TR–0001. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Mohegan Tribe, Mohegan Environmental Protection Department, 49 Sandy Desert Road, Uncasville, CT 06382, telephone number (860) 862–6112.

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114–2023, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail *mcdonnell.ida@epa.gov.*

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On September 6, 2007 (72 FR 51204) EPA published a Notice of Proposed Rulemaking (NPR) for the Mohegan Tribe of Indians of Connecticut.

The NPR proposed approval of the Mohegan Tribal Implementation Plan (TIP) consisting of a tribal ordinance, entitled ''Area Wide NO_X Emissions Limitation Regulation,'' that establishes a limit on nitrogen oxide (NO_X) emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. The formal TIP was submitted by Mohegan Tribe of Indians of Connecticut on May 4, 2005 and amended on August 22, 2007.

Other specific requirements of the Tribal Implementation Plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the Mohegan Tribal Implementation Plan that was submitted by the Mohegan Tribe of Indians of Connecticut on May 4, 2005, and amended on August 22, 2007 for limiting NO_X emissions from stationary sources owned by the Mohegan Tribal Gaming Authority to 49 TPY.

III. 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 tribal law as meeting Federal requirements and imposes no additional requirements beyond those imposed by tribal 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 tribal law and does not impose any additional enforceable duty beyond that required by tribal 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).

Since this rule simply approves pre-existing tribal law, it does not result in any direct costs or preemption of tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Nonetheless, EPA has consulted extensively with the Mohegan Tribe concerning this proposed TIP approval. 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), because it merely approves a tribal rule implementing a federal standard within the exterior boundaries of the Tribe's reservation,

and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a tribal rule implementing a Federal standard.

In reviewing TIP submissions, EPA's role is to approve tribal 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 Tribe to use voluntary consensus standards (VCS), EPA has no authority to disapprove a TIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a TIP submission, to use VCS in place of a TIP 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. 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 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 14, 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 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 25, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 49 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 49—[AMENDED]

■ 1. The authority citation for part 49 continues to read as follows:

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

Subpart D—Implementation Plans for Tribes–Region I

■ 2. Subpart D of Part 49 is amended by adding an undesignated center heading and § 49.201 as follows:

Implementation Plan for the Mohegan Tribe of Indians, Connecticut.

§ 49.201 Identification of plan.

(a) *Purpose and scope.* This section contains the implementation plan for the Mohegan Tribe of Indians, Connecticut. This plan consists of an area wide NO_X emission limitation regulation submitted by the Mohegan Tribe on May 4, 2005, applicable to the reservation of The Mohegan Tribe of Indians of Connecticut.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section with an EPA approval date prior to November 14, 2007, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**.

(2) EPA Region I certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of November 14, 2007.

(3) Copies of the materials incorporated by reference may be inspected at the New England Regional Office of EPA at One Congress Street, Suite 1100, Boston, MA 02114–2023; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-approved regulations.*

EPA-APPROVED MOHEGAN TRIBE OF INDIANS OF CONNECTICUT REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Mohegan Tribal Ordinance 2005–01.	Area Wide NO_X Emission Limitation Regulation.	04/28/05	11/14/07 [Insert **Federal Register** page number where the document begins].	
Mohegan Tribal Resolution 2005–19.	Amending Mohegan Tribal Ordinance 2005–01.	05/23/05	11/14/07 [Insert **Federal Register** page number where the document begins].	
Mohegan Tribal Resolution 2007–28.	Amending Mohegan Tribal Ordinance 2005–01.	08/22/07	11/14/07 [Insert **Federal Register** page number where the document begins].	
Mohegan Tribal Resolution 2005–17.	Approving the "Area Wide NO_X Emission Limitation Regulation Tribal NO_X Regulations.".	04/28/05	11/14/07 [Insert **Federal Register** page number where the document begins].	

EPA-APPROVED MOHEGAN TRIBE OF INDIANS OF CONNECTICUT REGULATIONS—Continued

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Mohegan Tribal Resolution 2005–16.	Authorizing civil penalties up to $25,000 per violation.	04/28/05	11/14/07	[Insert **Federal Register** page number where the document begins]
Memorandum of Agreement.	Memorandum of Agreement dated December 26, 2006, between the Mohegan Tribe of Indians of Connecticut and the U.S. Environmental Protection Agency Region I.	12/26/06	11/14/07 [Insert **Federal Register** page number where the document begins].	

[FR Doc. E7–22221 Filed 11–13–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[EPA–R03–OAR–2007–0533; FRL–8494–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Centre County (State College) 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Centre County ozone nonattainment area (State College Area) be redesignated as attainment for the 8-hour ozone ambient air quality standard (NAAQS). EPA is approving the ozone redesignation request for the State College Area. In conjunction with its redesignation request, PADEP submitted a SIP revision consisting of a maintenance plan for the State College Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is approving the 8-hour maintenance plan. PADEP also submitted a 2002 base year inventory for the State College Area which EPA is approving. In addition, EPA is approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the State College Area maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request, and the maintenance plan and the 2002 base year emissions inventory as revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on December 14, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–0533. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environment Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 11, 2007 (72 FR 51747), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania's redesignation request, a SIP revision that establishes a maintenance plan for the State College Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation, and a 2002 base year emissions inventory. The formal SIP revisions were submitted by PADEP on June 12, 2007. Other specific requirements of Pennsylvania's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

However, on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23591, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in *South Coast Air Quality Management Dist.* v. *EPA,* Docket No. 04–1201, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of Title I, part D of the Act as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8 decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8 decision reaffirmed the December 22, 2006 decision that EPA had improperly failed to retain measures required for 1-

hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for the 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain NAAQS. In addition, the June 8 decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of the 1-hour motor vehicle emissions budgets until 8-hour budgets were available for 8-hour conformity determinations, which is already required under EPA's conformity regulations. The Court thus clarified the 1-hour conformity determinations are not required for anti-backsliding purposes.

For the reasons set forth in the proposal, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006 and June 8, 2007 decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in the light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

II. Final Action

EPA is approving the Commonwealth of Pennsylvania's redesignation request, maintenance plan, and the 2002 base year emissions inventory because the requirements for approval have been satisfied. EPA has evaluated Pennsylvania's redesignation request that was submitted on June 12, 2007 and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the State College Area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the State College Area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the maintenance plan for the State College Area submitted on June 12, 2007 as a revision to the Pennsylvania SIP. EPA is also approving the MVEBs submitted by PADEP in conjunction with its redesignation request. In addition, EPA is approving the 2002 base year emissions inventory submitted by PADEP on June 12, 2007 as a revision to the Pennsylvania SIP. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO_X and VOCs in the State College Area for the 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, the State College Area must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS IN TONS PER DAY (TPD)

Budget year	NO_X	VOC
2009	12.5	5.4
2018	6.0	3.7

The State College Area is subject to the CAA's requirement for the basic nonattainment areas until and unless it is redesignated to attainment.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This final rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Because this action affects the status of a geographical area, does not impose any new requirements on sources, or allows the state to avoid adopting or implementing other requirements, this action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the 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 approves a state rule implementing a Federal standard.

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 14, 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, approving the redesignation of the State College Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base year emission inventory, and the MVEBs identified in the maintenance plan, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 1, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	State College (Centre County).	06/12/07	11/14/07 [Insert page number where the document begins].	

* * * * *

PART 81—[AMENDED]

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

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

■ 4. In § 81.339, the table entitled ''Pennsylvania—Ozone (8-Hour Standard)'' is amended by revising the entry for the State College, PA, Centre County to read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
*	*	*	*	*
State College, PA: Centre County	12/14/07	Attainment.		
*	*	*	*	*

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

* * * * *

[FR Doc. E7–22042 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0321; FRL–8153–5]

Sethoxydim; Pesticide Tolerance Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued an amendment establishing tolerances for combined residues of sethoxydim; 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as sethoxydim) in or on buckwheat grain, buckwheat flour, okra, borage seed, borage meal, fresh

dillweed leaves, radish tops, turnip greens, and vegetable, root and tuber, group 1 (72 FR 8916, February 28, 2007). The tolerances were requested by Interregional Research Project No. 4 (IR-4) under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). Because of a technical error with the structure of the regulatory table, the amendments adding new commodities to the sethoxydim tolerances could not be made. This technical amendment is being issued to correctly show the content of § 180.412(a).

DATES: This final rule is effective November 14, 2007.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0321. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Does this Technical Amendment Do?

In the Febrary 28, 2007 issue of the **Federal Register**, EPA issued an amendment establishing tolerances for combined residues of sethoxydim; 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as sethoxydim) (72 FR 8916). The amendments removed the commodities: ''Beet, garden'', ''Beet, sugar, roots'',''Carrot, roots'' ''Horseradish'', and ''Tuberous and corm vegetablecrop subgroup''; and added borage, meal at 10 ppm; borage, seed at 6.0 ppm; buckwheat, flour at 25 ppm; buckwheat, grain at 19 ppm; dillweed, fresh leaves at 10; okra at 2.5 ppm; radish, tops at 4.5 ppm; turnip, greens at 5.0 ppm, and vegetable, root and tuber, group 1 at 4.0 ppm to the table in § 180.412(a). The tolerances were requested by Interregional Research Project No. 4 (IR-4) under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The Office of Federal Register removed those commodities that were designated for removal; however, because of a technical problem with the structure of the table as it appeared in the February 28, 2007 amendment to § 180.412(a), the Office of the Federal Register could not incorporate those commodities that were added. This technical amendment is being issued to correctly promulgate and show the content of § 180.412(a).

II. Why is this Technical Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical amendment final without prior proposal and opportunity for comment, because the use of notice and comment procedures are unnecessary to effectuate this technical amendment. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This action is a technical amendment to a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Order for the underlying rule is discussed in Unit VI. of the February 28, 2007, final rule (72 FR 8916).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 2, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.412, revise paragraph (a) to read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

(a) *General*. Tolerances are established for combined residues of the

herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one (CAS Reg. No. 74051–80–2) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the following commodities:

Commodity	Parts per million
Alfalfa, forage	40.0
Alfalfa, hay	40.0
Almond, hulls	2.0
Apple, dry pomace	0.8
Apple, wet pomace	0.8
Apricot	0.2
Asparagus	4.0
Bean, dry, seed	20.0
Bean, forage	15.0
Bean, hay	50.0
Bean, succulent	15.0
Beet, sugar, molasses	10.0
Beet, sugar, tops	3.0
Blueberry	4.0
Borage, meal	10
Borage, seed	6.0
Buckwheat, flour	25
Buckwheat, grain	19
Caneberry subgroup 13A	5.0
Canola/rapeseed	35.0
Canola/rapeseed, meal	40.0
Cattle, fat	0.2
Cattle, meat	0.2
Cattle, meat byproducts	1.0
Cherry, sweet	0.2
Cherry, tart	0.2
Citrus, molasses	1.5
Citrus, dried pulp	1.5
Clover, forage	35.0
Clover, hay	50.0
Coriander	4.0
Corn, field, grain	0.5
Corn fodder	2.5
Corn forage	2.0
Corn, sweet, forage	3.0
Corn, sweet, kernel plus cob with husks removed	0.4
Corn, sweet, stover	3.5
Cotton, seed, soapstock	15
Cotton, undelinted seed	5.0
Cranberry	2.0
Dillweed, fresh leaves	10
Egg	2.0
Flax, meal	7
Flax, seed	5.0
Flax, straw	2.0
Fruit, citrus	0.5
Fruit, pome	0.2
Goat, fat	0.2
Goat, meat	0.2
Goat, meat byproducts	1.0
Grape	1.0
Grape, raisin	2.0
Hog, fat	0.2
Hog, meat	0.2
Hog, meat byproducts	1.0
Horse, fat	0.2
Horse, meat	0.2
Horse, meat byproducts	1.0
Juneberry	5.0
Lentil, seed	30.0
Lingonberry	5.0
Milk	0.5
Nectarine	0.2
Nut, tree, group 14	0.2
Okra	2.5
Peach	0.2
Pea, dry, seed	40.0
Pea, field, hay	40.0
Pea, field, vines	20.0
Peanut	25.0
Peanut, soapstock	75.0
Pea, succulent	10.0
Peppermint, tops	30.0
Pistachio	0.2
Potato, flakes	8.0
Potato, granules	8.0
Potato, processed potato waste	8.0
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, meat byproducts	2.0
Radish, tops	4.5
Salal	5.0
Safflower	15.0
Sheep, fat	0.2
Sheep, meat	0.2
Sheep, meat byproducts	1.0
Soybean	16.0
Soybean, hay	10.0
Spearmint, tops	30.0
Strawberry	10.0
Sunflower, meal	20.0
Sunflower, seed	7.0
Tomato, concentrated products	24
Tomato, dry pomace	12.0
Turnip, greens	5.0
Vegetable, brassica, leafy, group 5	5.0
Vegetable, bulb, group 3	1.0
Vegetable, cucurbit, group 9	4.0
Vegetable, fruiting, group 8	4.0
Vegetable, leafy, except brassica, group 4	4.0
Vegetable, root and tuger, group 1	4.0

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[FR Doc. E7–22220 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0305; FRL–8156–6]

Isoxadifen-ethyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of isoxadifen-ethyl (ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate; CAS Reg. No. 163520–33–0) and its metabolite 4,5-dihydro-5,5,diphenyl-3-isoxazolecarboxylic acid when used as an inert ingredient (safener) in or on corn, sweet, kernel plus cob with husks removed; corn, sweet, forage; corn, sweet, stover; corn, pop, grain; corn, pop, stover; and corn, oil. EPA is also revising existing tolerances for residues of isoxadifen-ethyl in or on corn, field, forage and corn, field, hay, and removing the seasonal application rate specification from existing tolerances. Interregional Research Project Number 4 (IR-4) and Bayer CropScience requested certain tolerance amendments for the inert ingredient safener isoxadifen-ethyl under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 14, 2007. Objections and requests for hearings must be received on or before January 14, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0305. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Tracy Ward, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-308-9361; e-mail address: *ward.tracyh@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural

producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0305 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 14, 2008.

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

II. Background and Statutory Findings

EPA received several petitions requesting new tolerances and amendments to existing tolerances for the inert ingredient (safener) isoxadifen-ethyl (ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate; CAS Reg. No. 163520–33–0). The most recent final rule that established tolerances for this safener was published in the **Federal Register** (69 FR 29882) on May 26, 2004 (*http://www.epa.gov/fedrgstr/EPA-PEST/2004/May/Day-26/p11561.htm*). That final rule provides a description of the toxicity data and risk assessments for isoxadifen-ethyl, and the reader is referred to it for additional information. The new petitions received by the Agency are summarized below.

In the **Federal Register** of January 18, 2006 (81 FR 2926) (FRL–7750–1), the Agency issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a announcing the filing of pesticide petition (PP 5E6962) by Bayer CropScience, 2 Alexander Drive, Research Triangle Park, NC 27709. The petition requested an increase in the tolerances under 40 CFR 180.570 for residues of isoxadifen-ethyl and its metabolite 4,5-dihydro-5,5, diphenyl-3-isoxazolecarboxylic acid when used as an inert ingredient (safener) in or on the food commodities corn, field, forage at 0.20 parts per million (ppm) (increased from existing tolerance of 0.10 ppm) and corn, field, stover at 0.40 ppm (increased from existing tolerance of 0.20 ppm). No substantive comments were received for this Notice.

The Agency also issued a notice in the April 4, 2007 **Federal Register** (72 FR 163552) announcing the filing of pesticide petition (PP 5E7007) by IR-4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902-3390. The petition requested the establishment of tolerances for residues of isoxadifen-ethyl and its metabolite in or on corn, sweet, kernel plus cob with husks removed (K+CWHR) at 0.05 ppm; corn, sweet, forage at 0.40 ppm; corn, sweet, stover at 0.40 ppm; corn, pop, grain at 0.02 ppm; and corn, pop, stover at 0.40 ppm. No comments were received for this Notice.

In the same **Federal Register** of April 4, 2007, it was also noted that the seasonal application rates could be removed from the existing tolerances under 40 CFR 180.570. Seasonal application rates are not necessary when numerical tolerances are already established. No comments were received for this Notice.

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

III. Risk Characterization and Conclusion

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major

identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by isoxadifen-ethyl are discussed in this unit. EPA has sufficient data to assess the hazards of and make a determination on aggregate exposure for the chemical.

The following provides a brief summary of the risk assessment and conclusions for the Agency's review of isoxadifen-ethyl. The Agency's full decision document and risk assessments for this action are available on EPA's Electronic Docket at *http://www.regulations.gov/* under docket number EPA–HQ–OPP–2005–0305. For the full toxicity data and information on which this risk assessment is based, the reader is referred to a Final Rule establishing tolerances for isoxadifen-ethyl that published in the May 26, 2004 **Federal Register** (69 FR 29882).

A. Human Health

The Agency reviewed the available information on isoxadifen-ethyl submitted by the petitioners as well as additional information available to EPA. The toxicity database is sufficient for isoxadifen-ethyl. Isoxadifen-ethyl has low acute oral, dermal and inhalational toxicity to rats. It is non-irritating to rabbit skin, moderately irritating to the eye, and is a skin sensitizer in guinea pigs. The chemical did not produce systemic toxicity in a subchronic dermal toxicity study up to the limit dose. Isoxadifen-ethyl tested negative overall for mutagenicity, and it was classified as ''not likely to be a human carcinogen.'' In subchronic and chronic oral toxicity studies, kidney and liver effects and decreased body weight and weight gain were observed. Concerning developmental toxicity, the Agency concluded that there is no concern for increased susceptibility in offspring. For additional information on the human health toxicity data for isoxadifen-ethyl, see the docket and the **Federal Register** of May 26, 2004 (69 FR 29882).

B. Exposure Assessment

The Agency conducted a dietary exposure assessment using the Dietary Exposure Evaluation Model-Food Consumption Intake Database (DEEM-FCID™) for all uses requested by the petitioners. Dietary food and drinking water exposures from the inert ingredient safener use of isoxadifen-ethyl are low for all population subgroups, and therefore, not of concern. The highest dietary exposure value estimated was 2.3% of the chronic population adjusted dose (PAD) for infants (< 1 year old).

The Agency conducted a residential exposure assessment. Residential dermal and inhalation exposures for the general population (including toddlers) are also not of concern given that the estimated margins of exposure (MOEs) range from 790 to 1,500. Isoxadifen-ethyl is currently in pesticide formulations applied by professional pesticide applicators to commercial and residential lawns, recreational facilities, etc. There are no non-pesticidal uses of this chemical. Therefore, no further aggregate assessment is necessary. For additional information on the exposure assessment for isoxadifen-ethyl, see the docket and the **Federal Register** of May 26, 2004 (69 FR 29882).

C. Safety Factor for Infants and Children

Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. The toxicity database is sufficient for isoxadifen-ethyl and potential exposure is adequately characterized based on modeling. In terms of hazard, there are low concerns and no residual uncertainties regarding prenatal and/or postnatal toxicity. Accordingly, EPA concludes that the additional tenfold safety factor for the protection of infants and children is unnecessary. For additional information on the Safety Factor determination for infants and children for isoxadifen-ethyl, see the docket and the **Federal Register** of May 26, 2004 (69 FR 29882).

D. Cumulative Exposure

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to isoxadifen-ethyl and any other substances, and the chemical does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that isoxadifen-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

E. Other Considerations

1. *Analytical methods*. Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: residuemethods@epa.gov. For the complete description of Analytical Methods for isoxadifen-ethyl, see the docket and the **Federal Register** of May 26, 2004 (69 FR 29882).

2. *International tolerances*. There are no Codex tolerances established for isoxadifen-ethyl. Canada has established a Maximum Residue Limits for isoxadifen-ethyl on corn, field, grain at 0.08 ppm.

F. Determination of Safety and Conclusions

The Agency is granting the requested tolerances for isoxadifen-ethyl and its metabolite on corn, field, forage at 0.20 ppm and corn, field, stover at 0.40 ppm. Although the petitioner requested tolerances in or on corn, sweet, kernal plus cob with husk removed at 0.05 ppm; corn, sweet, forage at 0.40 ppm; corn, sweet, stover at 0.40 ppm; corn, pop, grain at 0.02 ppm; and corn, pop, stover at 0.40 ppm, based on the Agency's review of the data and information available for isoxadifen-ethyl, including toxicity endpoints and previously submitted field trial data, the Agency is granting tolerances for these uses under 40 CFR 180.570 as follows: corn, sweet, kernal plus cob with husk removed at 0.04 ppm; corn, sweet, forage at 0.30 ppm; corn, sweet, stover at 0.45 ppm; corn, pop, grain at 0.04 ppm; and corn, pop, stover at 0.25 ppm. In addition, based on the results of the risk assessment, the Agency is lowering the current tolerance on corn, field, grain to 0.08 ppm (from the established 0.10 ppm) and establishing an exemption for corn, oil at 0.50 ppm. A new field corn processing study is needed if the petitioner wishes to remove the corn, oil tolerance.

Finally, the Agency is removing the seasonal application rates from the existing tolerance expression of 40 CFR

180.570. Seasonal application rates are not necessary when numerical tolerances are already established.

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm to the general population, including infants and children, from aggregate exposure to residues of isoxadifen-ethyl and its metabolite. Accordingly, EPA finds that the tolerances described above for residues of isoxadifen-ethyl and its metabolite will be safe. EPA is establishing tolerances for residues of isoxadifen-ethyl and its metabolite when it is used as an inert ingredient safener in pesticide formulations.

IV. Statutory and Executive Order Reviews

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

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

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

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 5, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.570 is amended by revising paragraph (a) to read as follows:

§ 180.570 Isoxadifen-ethyl; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of isoxadifen-ethyl (ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate, (CAS No. 163520–33–0), and its metabolite: 4,5-dihydro-5,5-diphenyl-3-isoxazolecarboxylic acid, when used as an inert ingredient (safener) in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, grain	0.08
Corn, field, forage	0.20
Corn, field, stover	0.40
Corn, oil	0.50
Corn, pop, grain	0.04
Corn, pop, stover	0.25
Corn, sweet, forage	0.30
Corn, sweet, kernel plus cob with husk removed	0.04
Corn, sweet, stover	0.45

(2) Tolerances are established for the residues of isoxadifen-ethyl (3-isoxazolecarboxylic acid, 4,5-dihydro-5,5-diphenyl-, ethyl ester (CAS No. 164520–33–0)), and its metabolites 4,5-dihydro-5,5-diphenyl-3-isoxazolecarboxylic acid and β-hydroxy-β-benzenepropanenitrile when used as an inert ingredient (safener) in or on the following raw agricultural commodities:

Commodity	Parts per million
Rice, grain	0.10
Rice, hulls	0.50
Rice, straw	0.25

[FR Doc. E7–22223 Filed 11–13–07; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0119; FRL–8156–8]

Cyprodinil; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for residues of cyprodinil in or on onion, dry bulb; onion, green; and strawberry. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The tolerances will expire on December 31, 2009.

DATES: This regulation is effective November 14, 2007. Objections and requests for hearings must be received on or before January 14, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION)**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0119. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Public Docket, in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305-5218; e-mail address: *stanton.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

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- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

II. Background and Statutory Findings

In the **Federal Register** of September 28, 2007 (72 FR 55204-55207) (FRL–8147–1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E5012) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635. The petition requested that 40 CFR 180.532 be amended by extending the time-limited tolerances to December 31, 2009 for residues of the fungicide cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on onion, dry bulb at 0.60 parts per million (ppm); onion, green at 4.0 ppm; and strawberry at 5.0 ppm. This notice referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of cyprodinil on onion, dry bulb at 0.60 ppm; onion, green at 4.0 ppm; and strawberry at 5.0 ppm.

In the **Federal Register** of October 20, 2004 (69 FR 61599-61605, FRL–7682–1) the Agency published a Final rule establishing tolerances for residues of cyprodinil in or on almond, hulls; bean, dry; bean, succulent; and leafy greens subgroup 4A, except spinach. When the Agency conducted the risk assessments in support of this tolerance action it assumed that cyprodinil residues would be present on dry bulb onion, green onion and strawberry as well as on all foods covered by the proposed and established tolerances. Residues on dry bulb onion, green onion and strawberry were included because there were existing time-limited tolerances for these commodities. Therefore, extending the dry bulb onion, green onion and strawberry tolerances will not change the most recent estimated aggregate risks resulting from use of cyprodinil, as discussed in the October 20, 2004 **Federal Register**, cited above. Refer to the October 20, 2004 **Federal Register** document, cited above, for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon those risk assessments and the findings made in the **Federal Register** document in support of this action.

Based on the risk assessment discussed in the final rule published in the **Federal Register** of October 20, 2004, cited above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyprodinil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography (HPLC)/ultra-violet (UV) Method AG- 631B) is available to enforce the tolerance expression. The method is substantially identical to earlier methods (Methods AG-631, AG-631A and REM 141.01) that have been adequately validated by independent laboratories and the Agency. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

Codex maximum residue limits (MRLs) have been established for residues of cyprodinil in or on strawberries at 2 ppm and dry bulb onions at 0.3 ppm. The Codex MRLs are lower than the time-limited tolerances in the United States (5.0 ppm on strawberry and 0.6 ppm on dry bulb onions) in part because of differences in use patterns here and in Europe. The U.S. tolerances are based on higher seasonal application rates and/or shorter pre-harvest intervals. The higher U.S. tolerances also reflect uncertainties in the submitted field trial data for these crops. To address these uncertainties, EPA required additional field trials on strawberries and onions as a condition of registration. The new field trials have been submitted and are undergoing review at the Agency. In its decision regarding permanent tolerances for strawberry and dry bulb onions, EPA will consider international residue limits, including Codex MRLs, and make every effort to harmonize if possible.

V. Conclusion

Therefore, these tolerances are extended for residues of cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on onion, dry bulb at 0.6 ppm; onion, green at 4.0 ppm; and strawberry at 5.0 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 2, 2007.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.532 is amended by revising the table in paragraph (a)(2) to read as follows:

§ 180.532 Cyprodinil; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million	Expiration/revocation date
Onion, bulb	0.60	12/31/09
Onion, green	4.0	12/31/09
Strawberry	5.0	12/31/09

* * * * *

[FR Doc. E7–22233 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070709299–7300–01]

RIN 0648–AV75

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Temporary Haddock Size Limit Extension

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

ACTION: Temporary rule; emergency action extended, and request for comments.

SUMMARY: NMFS continues the haddock minimum size implemented by an August 10, 2007, emergency final rule that is set to expire on February 6, 2008. Specifically, this temporary rule continues the commercial minimum haddock size of 18 inches (45.7 cm) that was reduced from the previous minimum size of 19 inches (48.3 cm). This action is taken pursuant to NOAA's authority to issue emergency measures under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The intent of this extension is to continue measures intended to reduce regulatory discards of Georges Bank (GB) and Gulf of Maine (GOM) haddock to prevent excessive waste and comply with the goals of reducing discards and maintaining the rebuilding programs of the Northeast (NE) Multispecies Fishery Management Plan (FMP), while helping to achieve optimum yield at the same time. This action is intended to reduce discarding and maintain consistency with the FMP and the Magnuson-Stevens Act.

DATES: The expiration date of the emergency rule published August 10, 2007 (72 FR 44979), is extended to August 10, 2008. NMFS will accept comments through December 14, 2007.

ADDRESSES: You may submit comments, identified by 0648–AV75, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-rulemaking Portal.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Haddock Size Limit Extension.''
- Fax: (978) 281–9135.

Instructions: All comments received are part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publically accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Thomas A. Warren, Fishery Policy Analyst, (978) 281–9347, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

This temporary final rule extends the emergency commercial minimum haddock size of 18 inches (45 cm), authorized by section 305(c) of the Magnuson-Stevens Act, in order to reduce excessive discarding of GB and GOM haddock. The historical commercial haddock minimum size of 19 inches (48.3 cm) was reduced by temporary emergency action to 18 inches (45 cm) on August 10, 2007 (72 FR 44979). That Secretarial action was taken in response to the New England Fishery Management Council (Council) vote on June 21, 2007, to recommend that the Secretary of Commerce take action to lower the minimum size of haddock to 17 inches (43.2 cm) for vessels fishing on GB. A written request from the Council to NMFS for such action was dated June 25, 2007.

Available information from the Council and data from observed trips to the Eastern U.S./Canada Area indicated that there were large amounts of discarding of haddock occurring because only a small fraction of the haddock from an exceptionally large year class being caught on GB has reached the minimum size of 19 inches (48.3 cm). Observer data showed a discard-to-kept ratio of over 1 lb (0.45 kg) of haddock discarded to every pound of haddock landed. Cumulative haddock discards from the Eastern U.S./Canada Area from May 1, 2007, through October 24, 2007, were estimated at approximately 700,000 lb (318 mt).

The reason for these large amounts of discards is that the very large 2003 year class of haddock, which is the largest since 1963, is growing more slowly than previously anticipated. Recent survey data indicate an average GB haddock

size of 16.6 inches (42.2 cm) for fish in the 2003 year class. The average size of the fish in the 2003 year class is anticipated to be 19 inches (48.3 cm) by the summer of 2008, which would make them legal to retain under the existing regulations, so the current discard situation will resolve itself over the long term. However, in the short term, in order to reduce the large amount of discards and associated discard mortality that has been occurring in the haddock fishery, and enable such fish to be landed, a reduction in the haddock minimum size to18 inches (45.7 cm) was warranted. NMFS's initial emergency action to make this change was implemented on August 10, 2007, and differed from the Council request in two aspects. Additional background for that action, including why the action differed from the Council request, an explanation of the scope of the measure (only commercial vessels, and covering the GOM and GB), and the evaluation of the emergency action with respect to NMFS policy guidelines for the use of emergency rules are contained in the preamble of the August 10, 2007, rule and are not repeated here.

As stated above, the emergency rule is scheduled to expire February 10, 2008. Because the majority of the very large 2003 year class will not reach 19 inches (48.3 cm) until the summer of 2008, NMFS extends the emergency rule through this action in order to continue to reduce the likelihood of excessive discarding.

During the initial emergency action, NMFS has monitored the haddock fishery closely in order to determine whether the reduction in haddock size has resulted in changes in fishing behavior or substantive increases in fishing effort. Monitoring results showed evidence of a decline in the discard rate and no increase in fishing effort. Pursuant to section 305(c)(3)(B) of the Magnuson-Stevens Act, management measures implemented by the August 10, 2007, emergency final rule may be extended for an additional period of 186 days, provided the public has had the opportunity to comment on the emergency regulations. NMFS will accept public comment after publication of this rule, on the effectiveness of the emergency action to date, and the extension of the emergency action implemented by this action.

Extension of the emergency rule and continuation of the lower haddock minimum size for a second 186–day period will reduce waste (discard mortality) in the fishery and may increase opportunities for the fishery to achieve optimum yield (OY). A collateral benefit of this action will be prevention of a significant direct economic loss by allowing the landing and sale of fish that would be discarded at sea if the minimum size limit were kept at 19–inches (48.3–cm). To revert to a 19–inch (48.3–cm) minimum size at the expiration of the August 10, 2007, emergency action would likely result in an increased discard rate, the associated mortality of such discarding, the irretrievable loss of significant economic revenues from the discarded fish, and the further diminishing of the industry's ability to achieve OY. These consequences are inconsistent with National Standards 1, 7, and 9.

The benefits to be gained through the continuation of the reduction of the haddock minimum size limit (e.g., reduced discarding and enhanced opportunities to achieve OY) justify the extension of this emergency action.

This action is not expected to interfere with any conservation objective of the FMP. Although GB and GOM haddock are still considered overfished, overfishing is not occurring. In recent years, less than 50 percent of the annual target TAC for GB haddock has been harvested. Allowing fish to be landed that would otherwise be discarded dead is not expected to increase fishing mortality or delay the rebuilding of the GB haddock stock. An increase in fishing effort is not expected due to the fact that, at current levels of fishing effort, trips under an 18–inch (45–cm) minimum haddock size may be more profitable because the same amount of fishing effort will yield more legal catch that can be landed and sold. A shift to target smaller fish is not likely because haddock in the 18 to19–inch (45 to 48.3–cm) range are caught together, and there is limited selectivity of the fishing gear. Therefore, there appears to be, in the short term, no incentive or effective way to target 18–inch (45.7–cm) haddock. NMFS will continue to monitor this fishery closely in order to determine whether this action results in significant changes in fishing behavior or substantive increases in fishing effort. If necessary, inseason implementation of management measures through existing Regional Administrator authority could be taken to control catch. The Northeast Fisheries Science Center estimates that the average total length of GB haddock will not be 19 inches (48.3 cm) or above until the summer of 2008.

Classification

NMFS has determined that the emergency management measure extended by this temporary rule is necessary to respond to an emergency situation in the NE multispecies fishery and is consistent with the Magnuson-Stevens Act and other applicable law.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

This rule is exempt from the procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment.

This emergency action meets the Categorical Exclusion requirements of NOAA Administrative Order 216–6, and therefore no analysis was prepared pursuant to the National Environmental Policy Act.

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

Dated: November 7, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–22240 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XD83

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish 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 northern rockfish 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 northern rockfish 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 8, 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 northern rockfish TAC allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA is 169 metric tons 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*. Section 679.83(a)(2) allows trawl or longline gear vessels participating in the entry level rockfish fishery to harvest any unused northern rockfish after 1200 hrs, A.l.t., September 1, 2007.

As of September 1, 2007, 169 mt remained in the entry level allocation of northern rockfish. In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TAC of northern rockfish 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 northern rockfish 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)(1)(i) and (f) and § 679.81(h)(5) 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 northern rockfish 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 November 7, 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 8, 2007.

Emily H. Menashes

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

[FR Doc. 07–5648 Filed 11–8–07; 1:58 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 219
Wednesday, November 14, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM–51–12]

State of California; Supplement to a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received a supplement to a petition for rulemaking filed with the Commission by Edmund G. Brown, Jr., Attorney General for the State of California. The NRC docketed the original petition dated March 16, 2007, as PRM–51–12. In this supplement to PRM–51–12, the petitioner provides clarification to the original PRM. This document is being noticed for information only and not for public comment.

ADDRESSES: For a copy of the original petition PRM–51–12 and the supplement to PRM–51–12, write to Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

PRM–51–12 and the supplement to PRM–51–12 may be inspected and copied for a fee at the NRC Public Document Room (PDR), 11555 Rockville Pike, Public File Area O1F21, Rockville, Maryland. Copies of comments received on PRM–51–12 are available through the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7163, or toll free: 800–368–5642.

SUPPLEMENTARY INFORMATION: The NRC received a petition for rulemaking dated March 16, 2007, submitted by Edmund G. Brown, Jr., Attorney General for the State of California (petitioner). The petition was docketed as PRM–51–12. The notice of receipt of PRM–51–12 was published on May 14, 2007 (72 FR 27068). On September 19, 2007, the petitioner submitted a document characterized as an ''Amended Petition'' for rulemaking to clarify PRM–51–12.

In the original petition, the petitioner requested that the NRC rescind its regulations at 10 CFR Part 51 that declare the potential environmental effects of the approval, construction, and operation of high-density pool storage of spent nuclear fuel, are not and cannot be significant for purposes of the National Environmental Policy Act (NEPA) and NEPA analysis; adopt and issue a generic determination that approval of such storage at a nuclear power plant or any other facility does constitute a major federal action that may have a significant effect on the human environment; and order that no NRC licensing decision that approves high-density pool storage of spent nuclear fuel at a nuclear power plant or other storage facility may issue without the prior adoption and certification of an environmental impact statement (EIS) that complies with NEPA in all respects, including full identification, analysis, and disclosure of the potential environmental effects of such storage, including the potential for accidental or deliberately caused release of radioactive products to the environment, whether by accident or through acts of terrorism, as well as full and adequate discussion of potential mitigation for such effects, and full discussion of an adequate array or alternatives to the proposed storage project.

In the September 19, 2007 document, the petitioner clarifies that the State of California seeks to have the NRC rescind all regulations found in 10 CFR Part 51, that imply, find or determine that the potential environmental effects of high-density pool storage of spent nuclear fuel are not significant for purposes of NEPA and NEPA analysis. The petitioner also includes requests for a generic determination and order. These requests are identical to the requests made in the March 16, 2007 petition and are as described previously.

The NRC does not consider the September 19, 2007 document to be substantively different from PRM–51–12. Therefore, the NRC will consider the September 19, 2007 document to be a supplement to PRM–51–12 and will include it in the docket for PRM–51–12. The NRC is publishing this notice for information only and not for public comment. The public comment period for PRM–51–12 closed on July 30, 2007.

Dated at Rockville, Maryland, this 6th day of November 2007.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. E7–22213 Filed 11–13–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Chapter V

[Docket ID OTS–2007–0023]

Proposed Agency Information Collection Activities; Comment Request—Information Needed To Respond to a Proposal To Convert From the Thrift Financial Report (TFR) to the Call Report

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Advance Notice of Proposed Rulemaking (ANPR).

SUMMARY: The Office of Thrift Supervision is considering requiring savings associations to file quarterly Consolidated Reports of Condition and Income (Call Report) instead of the Thrift Financial Report (TFR) currently filed. This ANPR solicits comments identifying information that the thrift industry and the public would need to analyze a proposal to convert from the TFR to the Call Report used by other federal banking regulators and to amend

any OTS rules that would be affected by such a change.

At the end of the comment period, OTS will review the comments and conduct any research needed to compile the identified information. OTS plans to publish a second notice containing the requested information and solicit comments on whether to convert to the Call Report.

DATES: Submit written comments on or before January 14, 2008.

ADDRESSES: You may submit comments, identified by OTS–2007–0023, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Office of Thrift Supervision'' from the agency drop-down menu, then click submit. Select Docket ID ''OTS–2007–0023'' to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The ''User Tips'' link at the top of the page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS–2007–0023.
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: OTS–2007–0023.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Viewing Comments Electronically: Go to *http://www.regulations.gov*, select ''Office of Thrift Supervision'' from the agency drop-down menu, then click ''Submit.'' Select Docket ID ''OTS–2007–0023'' to view public comments for this notice of proposed rulemaking.

Viewing Comments On-Site: You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: You can access more information on the TFR form and instructions on OTS's Web site via these links:

TFR report form—*http://www.ots.treas.gov/docs/7/78199.pdf.*

TFR instructions—*http://www.ots.treas.gov/docs/4/4210042.pdf.*

You can access the Call Report form and instructions on the FDIC's Web site via these links:

Call Report form—*http://www.fdic.gov/regulations/resources/call/index.html#RptForms.*

Call Report instructions—*http://www.fdic.gov/regulations/resources/call/crinst/callinst2007_march.html.*

You can request additional information about this proposal by sending an e-mail to *callreport@ots.treas.gov*, or request to Attention: Request for Information on Call Conversion at Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS-regulated savings associations (savings associations) are required to submit a TFR to OTS each quarter. TFR data include information on savings associations and their holding companies. Also collected as part of the TFR are detailed maturity and rate data used as inputs for the OTS Net Portfolio Value (NPV) Model. TFR data are used to monitor the condition, performance, and risk profile of individual institutions, systemic risk among groups of institutions, and all savings associations as a whole.

TFR financial data are used to identify areas of focus for both on-site examinations and off-site monitoring. OTS uses TFR data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institutions would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States. TFR data are also used to calculate FDIC deposit insurance premiums and OTS's savings association assessments.

Current Action: OTS is considering whether to convert savings associations from the TFR to the Call Report. If this proposal were adopted, savings associations would no longer be required to file the TFR, but instead would file a Call Report. Savings associations would be required to continue filing certain information currently collected on the TFR that is not included on the Call Report. This additional information would include the Consolidated Maturity Rate data (Schedule CMR) and the Holding Company data (Schedule HC). It is anticipated that this additional information would be filed as schedules of the Call Report. If the additional information cannot be included as schedules of the Call Report, it would be filed directly with OTS.

OTS seeks to supply the industry and the public with the information needed to analyze and provide informed comments on the proposal. After OTS has researched and compiled the information needed, OTS will request comment on the substance of any conversion proposal. That proposal would include both the requested information and the proposed amendments to any OTS regulations that would need to be modified.

Discussion of Proposed Revisions

Savings associations are currently required to submit quarterly TFR reports directly to the OTS. All other FDIC-insured institutions submit quarterly Call Reports to the their primary federal regulator via the Federal Financial Institutions Examination Council's (FFIEC) Central Data Repository (CDR). While the TFR and the Call Report share general similarities, there are some significant differences in the data that are collected due primarily to differences in industry focus and assets between savings associations and commercial banks. There are also differences in how the two reporting systems are administered. Some of the more significant differences are highlighted below.

Data Collected

In general, differences in the data collected on the TFR and Call Report reflect historic lending differences between banks and savings associations. Given savings associations' historic focus on mortgage and consumer lending, the TFR collects more detailed information on those types of loans, while the Call Report collects more detailed information on investment securities and commercial loans.

In the area of capital, Call Report Schedule RC–R (Regulatory Capital) collects many more data items than the TFR Schedule CCR (Consolidated Capital Requirement). The Call Report

also collects more detail on risk-weighted assets by asset class and off-balance sheet categories.

With regard to valuation allowances, TFR Schedule VA collects greater detail on general valuation allowances by asset type than does the Call Report. The TFR also breaks out specific valuation allowances (SVAs), while the Call Report combines SVAs with charge-offs.

Interest rate risk monitoring is another area of reporting difference. TFR Schedule CMR collects detailed on- and off-balance sheet repricing data, from which measures of interest rate risk are calculated using the proprietary OTS NPV Model. OTS provides each savings association its own interest rate risk measures free of charge in the Interest Rate Risk Report. By contrast, the Call Report collects only limited repricing data.

Also collected on the TFR are savings association holding company data. In contrast, bank holding companies are required to file with the Federal Reserve Board quarterly information (FR Y–9 series reports) in addition to Call Reports for their insured subsidiaries.

OTS anticipates that savings associations would be required to file a modified version of the Call Report on a quarterly basis, in place of the TFR report. As noted above, the modified Call Report would include new schedules specific to the OTS-regulated savings associations such as:

- Consolidated Maturity/Rate Schedule CMR (or similar loan portfolio data),
- Thrift Holding Company data, similar to the current TFR Schedule HC, and
- Other supplemental data items.

Savings associations may be exempt from reporting some other Call Report items.

Data Collection Methods

Currently, savings associations are required to file their TFR reports electronically using OTS-supplied Electronic Filing Software (EFS). This software includes features that assist the user in the report preparation process. Savings associations with questions about how to use the EFS or how to prepare the TFR report can contact OTS directly for customer support.

If a conversion to the Call Report were implemented, savings associations would be required to file their Call Reports electronically using filing software purchased from a third-party vendor. Savings associations would transmit their Call Report data using the technology of the FFIEC's Central Data Repository system.

Staff

Converting to the Call Report might require savings associations to re-train report preparation staff. Call Report preparation training is available from independent trade or professional organizations.

Analytical Tools

Savings associations currently receive the Uniform Thrift Performance Report (UTPR), peer group data, and Interest Rate Risk reports each quarter through the Financial Reports Subscriber (FRS) software provided by OTS.

If conversion to the Call Report were adopted, the Uniform Bank Performance Report (UBPR) would be available for savings associations from the FFIEC Web site. Peer Group analyses, including banks, would also be available. Savings associations would continue to receive their Interest Rate Risk reports from the OTS. The reports would continue to be based on the CMR data, whether the data is submitted with the Call Report or directly to OTS.

Requests for Comments

OTS would like to provide sufficient information to enable the public to analyze and comment on the proposed conversion from the TFR to the Call Report. Please provide comments identifying the information you would need to evaluate the proposal. OTS will research and compile the information requested. OTS will publish a second notice that will include: (1) The requested information, (2) the proposed amendments to any OTS regulations that will need to be modified, and (3) a request for comment on the proposal to convert from the TFR to the Call Report. All comments will become a matter of public record.

Dated: November 6, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. E7–22175 Filed 11–13–07; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD]

RIN 2120–AA64

Airworthiness Directive; Lockheed Model 382, 382B, 382E, 382F, and 382G Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Lockheed Model 382, 382B, 382E, 382F, and 382G series airplanes. This proposed AD would require revising the FAA-approved maintenance inspection program to include inspections that will give no less than the required damage to tolerance rating for each structural significant item (SSI), doing repetitive inspections to detect cracks of all SSIs, and repairing cracked structure. This proposed AD results from a report of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design service objective. We are proposing this AD to maintain the continued structural integrity of the entire fleet of Model 382, 382B, 382E, 382F, and 382G series airplanes.

DATES: We must receive comments on this proposed AD by December 31, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, Georgia 30063.

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 proposed AD, 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.

FOR FURTHER INFORMATION CONTACT: Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6131; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under **ADDRESSES** section. Include ''Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing data and may amend this proposed AD because of those comments.

We will post all comments we received, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

In the early 1980s, as part of its continuing work to maintain the structural integrity of older transport category airplanes, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes reach or exceed their design service objective (DSO). In light of this, and as a result of increased utilization and longer operational lives, we determined that a supplemental structural inspection program (SSIP) was necessary to maintain the continued structural integrity for all airplanes in the transport fleet.

Issuance of Advisory Circular (AC)

As a follow-on from that determination, we issued AC No. 91–56 ''Supplemental Structural Inspection Program for Large Transport Category Airplanes,'' dated May 6, 1981. That AC provides guidance material to manufacturers and operators for use in developing a continuing structural integrity program to ensure safe operation of older airplanes throughout their operational lives. This guidance material applies to transport airplanes that were certified under the fail-safe requirements of part 4b (''Airplane Airworthiness, Transport Categories'') of the Civil Air Regulations or damage tolerance structural requirements of part 25 (''Airworthiness Standards: Transport Category Airplanes'') of the Federal Aviation Regulations (FAR) (14 CFR part 25), and that have a maximum gross weight greater than 75,000 pounds. The procedures set forth in that AC are applicable to transport category airplanes operated under subpart D (''Special Flight Operations'') of part 91 of the FAR (14 CFR part 91); part 121 (''Operating Requirements: Domestic, Flag, and Supplemental Operations''); part 125 (''Certification and Operations: Airplanes having a Seating Capacity of 20 or More Passengers or a Maximum Payload of 6,000 Pounds or More''); and part 135 (''Operating Requirements: Commuter and On-Demand Operations'') of the FAR (14 CFR parts 121, 125, and 135). The objective of the SSIP was to establish inspection programs to ensure timely detection of fatigue cracking.

Development of the SSIP

In order to evaluate the effect of increased fatigue cracking with respect to maintaining fail-safe design and damage tolerance of the structure of Lockheed Model 382, 382B, 382E, 382F,and 382G series airplanes, Lockheed conducted a structural easement of those airplanes, using damage tolerance evaluation techniques. Lockheed accomplished this reassessment using the criteria contained in AC No. 91–56, as well as Amendment 25–45 of section 25.571 (''Damage-tolerance and fatigue evaluation of structure'') of the FAR (14 CFR 25.571). During the reassessment, members of the airline industry participated with Lockheed in working group sessions and developed the SSIP for Lockheed Model 382, 382B 382E, 382F, and 382G series airplanes. Engineers and maintenance specialist from the FAA also supported these sessions. Subsequently, based on the working groups's recommendations, Lockheed developed the Supplemental Structural Inspection Document (SSID).

Revelant Service Information

We have reviewed Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document, SMP 515–C–SSID, Change 1, dated September 10, 2007 (hereafter ''the SSID''). The SSID describes procedures for revising the FAA-approved maintenance inspection program to include inspections that will give no less than the required damage tolerance assessment/analysis (DTA) for each supplemental significant item (SSI), and doing repetitive inspections to detect cracks of all SSIs. Accomplishing the actions specified in the SSID is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would require the following actions:

Paragraph (g) of the proposed AD would require incorporation of a revision into the FAA-approved maintenance inspection program that provides no less than the required damage tolerance rating (DTR) for each SSI listed in the SSID.

Paragraph (h) of the proposed AD would require repetitive inspections to detect cracks of all SSIs.

Paragraph (n) of the proposed AD would require repairing any cracked structure in accordance with the method approved by the FAA.

Paragraph (o) of the proposed AD specifies the requirements of the inspection program for transferred airplanes. Before any airplane that is subject to this proposal AD can be added to an air carrier's operations specifications, a program for doing the inspections required by this proposed AD must be established.

Differences Between the Proposed AD and Service Information

Section 6.0, ''Structural Inspection Requirements'' of the SSID specifies a threshold for accomplishing the initial inspections; however, it does not specify a grace period for airplanes that are near or have passed that threshold. This proposed AD would allow a grace period of 36 months after the effective date of the AD to initiate the applicable inspections to detect cracks of all SSIs. In addition, this proposed AD would require incorporation of the SSID into

the FAA-approved maintenance inspection program within 12 months after the effective date of the AD.

The SSID does not specify instructions on how to repair certain conditions. This proposed AD would require operators to repair those conditions using a method approved by the FAA.

These differences have been coordinated with Lockheed.

Cost of Compliance

There are about 91 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost	Number of U.S.-registered airplanes	Fleet cost
Revision of maintenance inspection program.	600	$80	$48,000 per airplane	14	$672,000.
Inspections	2,724	80	$217,920, per airplane, per inspection cycle.	14	$3,050,880, per inspection cycle.

The number of inspection work hours, as indicated above, is presented as if the accomplishment of the actions in this proposed AD are to be conducted as ''stand alone'' actions. However, in actual practice, these actions for the most part will be done coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional inspection work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

Further, compliance with this proposed AD would be a means of compliance with the aging airplane safety final rule (AASFR) for the baseline structure of Model 382, 382B, 382E, 382F, and 382G series airplanes. The AASFR final rule requires certain operators to incorporate damage tolerance inspections into their maintenance inspection programs. These requirements are described in 14 CFR 121.370(a) and 129.16. Accomplishment of the actions required by this proposed AD will meet the requirements of these CFR sections for the baseline structure. The costs for accomplishing the inspection portion of this proposed AD were accounted for in the regulatory evaluation of the AASFR final rule.

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Lockheed: Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 31, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Lockheed Model 382, 382B, 382E, 382F, and 382G series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design service objective. We are issuing this AD to maintain the continued structural integrity of the entire fleet of Lockheed Model 382, 382B, 382E, 382F, and 382G series airplanes.

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.

Service Information

(f) The term ''the SSID,'' as used in this AD, means Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document, SMP 515–C–SSID, Change 1, dated September 10, 2007.

Revision of the FAA-Approved Maintenance Inspection Program

(g) Within 12 months after the effective date of this AD, incorporte a revision into the FAA-approved maintenance inspection program that provides no less than the required damage tolerance assessment/analysis (DTA) for each structural significant item (SSI) listed in the SSID. (The required DTA value for each SSI is listed in the SSID.) The revision to the maintenance inspection program must include and must be implemented in accordance with the procedures in Section 5.0, ''Damage Tolerance Analysis Methodology,'' and Section 7.0, ''Discrepancy Reporting,'' of the SSID. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

Initial and Repetitive Inspections

(h) At the later of the times specified in paragraphs (h)(1) and (h)(2) of this AD, except as provided by paragraphs (i) through (m) of this AD: Do the applicable initial inspections to detect cracks of all SSIs, in accordance with the SSID. Repeat the applicable inspections thereafter at intervals not to exceed the ''Recurring'' intervals specified in Section 6.0.0 of the SSID, except as provided by paragraphs (k) through (m) of this AD.

(1) Before the applicable ''Initial'' threshold specified in Section 6.0.0, ''Structural Inspection Requirements'' of the SSID.

(2) Within 36 months after the effective date of this AD, or within one ''Recurring'' interval measured from 12 months after the effective date of the AD, whichever comes first.

Exceptions to the SSID

(i) Where Section 6.0.0 of the SSID specifies the ''Initial'' threshold in years (since new), this AD requires compliance within the specified year since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(j) Where Section 6.0 of the SSID specifies the ''Initial'' threshold as ''Special Condition,'' this AD requires compliance within 24 months after the effective date of this AD.

(k) Where Section 6.0 of the SSID specifies the ''Initial'' threshold and ''Recurring'' interval as ''FS 1041 Fitting Replacement,'' this AD requires compliance within 24 months after the effective date of this AD and thereafter at intervals not to exceed 12 months.

(l) Where Section 6.0 of the SSID specifies the ''Initial'' threshold and ''Recurring'' interval as ''Engine Change,'' this AD requires compliance within 24 months after the effective date of this AD and thereafter at intervals not to exceed 36 months.

(m) Where Section 6.0 of the SSID specifies the ''Initial'' threshold and ''Recurring'' interval as ''Aft Lord Mount Change,'' this AD requires compliance within 24 months after the effective date of this AD and thereafter at intervals not to exceed 24 months.

Repair

(n) If any cracked structure is found during any inspection required by paragraph (h) of this AD, before further flight, repair the cracked structure using a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

Inspection Program for Transferred Airplanes

(o) Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (h) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (o)(1) or (o)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD: The inspection of each SSI must be done by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, at whichever time would result in the earlier accomplishment for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been done once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD: The inspection of each SSI required by this AD must be done either before adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. After each inspection has been done once, each subsequent inspection must be done in accordance with the new operator's schedule.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, Atlanta ACO, has the authority to approve AMOCs for this AD, if required in accordance with the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on October 23, 2007.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–5595 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29335; Directorate Identifier 2007–NM–045–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This document extends the comment period for the above-referenced NPRM, which proposes the adoption of a new airworthiness directive (AD) that applies to all McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. The NPRM would require repetitive inspections for cracking of the overwing frames from stations 845 to 905 (MD–87 stations 731 to 791), left and right sides, and corrective actions if necessary. The NPRM results from reports of cracked overwing frames. This extension of the comment period is necessary to ensure that all interested persons have ample opportunity to submit any written relevant data, views, or arguments regarding the NPRM.

DATES: We must receive comments on this NPRM by December 3, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

FOR FURTHER INFORMATION CONTACT: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5233; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the ''original NPRM'') for all McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. The original NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55111). The original NPRM proposed to require repetitive inspections for cracking of the overwing frames from stations 845 to 905 (MD–87 stations 731 to 791), left and right sides, and corrective actions if necessary. The original NPRM also invites comments on its overall regulatory, economic, environmental, and energy aspects.

Events Leading to Extension of Comment Period

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to extend the comment period for this NPRM until December 3, 2007, to receive additional comments.

FAA's Determination

We have considered this issue and find it appropriate to extend the comment period to give all interested persons additional time to examine the proposed requirements of the original NPRM and submit comments. After evaluating the circumstances stated previously, we have determined that extending the comment period until December 3, 2007, will not compromise the safety of these airplanes.

Extension of Comment Period

The comment period for Docket No. FAA–2007–29335; Directorate Identifier 2007–NM–045–AD; has been revised. The comment period now closes December 3, 2007.

No other part of the regulatory information has been changed; therefore, the original NPRM is not republished in the **Federal Register**.

Issued in Renton, Washington, on November 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–5654 Filed 11–9–07; 10:10 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29333; Directorate Identifier 2007–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This document extends the comment period for the above-referenced NPRM, which proposes the adoption of a new airworthiness directive (AD) that applies to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. The NRPM would require various repetitive inspections to detect cracks along the chemically milled steps of the fuselage skin or missing or loose fasteners in the area of the preventative modification or repairs, replacement of the time-limited repair with the permanent repair if applicable, and applicable corrective actions if necessary, which would end certain repetitive inspections. The NPRM results from a fatigue test that revealed numerous cracks in the upper skin panel at the chemically milled step above the lap joint. This extension of the comment period is necessary to ensure that all interested persons have ample opportunity to submit any written relevant data, views, or arguments regarding the NPRM.

DATES: We must receive comments on this NPRM by December 3, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the ''original NPRM'') for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. The original NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55118). The original NPRM proposed to require various repetitive inspections to detect cracks along the chemically milled steps of the fuselage skin or missing or loose fasteners in the area of the preventative modification or repairs, replacement of the time-limited repair with the permanent repair if applicable, and applicable corrective actions if necessary, which would end certain repetitive inspections. The original NPRM also invites comments on its overall regulatory, economic, environmental, and energy aspects.

Events Leading to Extension of Comment Period

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the

service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to extend the comment period for this NPRM until December 3, 2007, to receive additional comments.

FAA's Determination

We have considered this issue and find it appropriate to extend the comment period to give all interested persons additional time to examine the proposed requirements of the original NPRM and submit comments. After evaluating the circumstances stated previously, we have determined that extending the comment period until December 3, 2007, will not compromise the safety of these airplanes.

Extension of Comment Period

The comment period for Docket No. FAA–2007–29333; Directorate Identifier 2007–NM–141–AD; has been revised. The comment period now closes December 3, 2007.

No other part of the regulatory information has been changed; therefore, the original NPRM is not republished in the **Federal Register**.

Issued in Renton, Washington, on November 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–5656 Filed 11–9–07; 10:10 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27192; Directorate Identifier 2007–CE–008–AD]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited Model DHC–6 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

> Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 14, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: George Duckett, Aerospace Engineer, FAA, New York Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone: (516) 228–7325; fax: (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27192; Directorate Identifier 2007–CE–008–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On February 4, 1983, we issued AD 83–02–02, Amendment 39–4553. That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 83–02–02, structural evaluations of the DHC–6 series airplanes have shown that the service life limits and inspection schedules need to be revised.

Transport Canada, which is the aviation authority for Canada, has issued AD No. CF–2000–14, dated May 25, 2000, (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI refers to the Product Support Manual (PSM) 1–6–11, Revision 5, dated January 11, 2000, which describes the unsafe condition as:

> Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

The MCAI requires you to inspect, modify, and/or retire affected structural components to maintain the structural integrity of DHC–6 airplanes.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Viking Air Limited has issued PSM 1–6–11, Revision 6, dated March 28, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us

of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 166 products of U.S. registry. We also estimate that it would take about 30 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $988 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $562,408, or $3,388 per product.

We have no way of determining the number of airplanes that may need any modifications, repairs, or replacements based on the results of the repetitive inspections.

In addition, since the proposed AD is reducing the life limit of certain structural components of the affected airplanes, there would be replacement costs incurred earlier than expected. The FAA has no way of determining the operational usage of each airplane. Therefore, we cannot determine what these costs would be.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing AD 83–02–02, Amendment 39–4553; and adding the following new AD:

Viking Air Limited (formerly Bombardier Inc.): Docket No. FAA–2007–27192; Directorate Identifier 2007–CE–008–AD.

Comments Due Date

(a) We must receive comments by December 14, 2007.

Affected ADs

(b) This AD supersedes AD 83–02–02, Amendment 39–4553.

Applicability

(c) This AD applies to Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 51: Structures.

Reason

(e) The mandatory continuing airworthiness information (MCAI) refers to the Product Support Manual (PSM) 1–6–11, Revision 5, dated January 11, 2000, which states:

Certain structural components must be replaced by new components at a certain stage of the aircraft's life to avoid any possibility of fatigue failure.

The MCAI requires you to inspect, modify, and/or retire affected structural components to maintain the structural integrity of DHC–6 airplanes.

Actions and Compliance

(f) Unless already done, within 30 days after the effective date of this AD, for all aircraft, incorporate the inspections, modifications, and/or retirement of components specified in Bombardier Inc. (formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 6, dated March 28, 2007, into the aircraft maintenance program. The compliance times are specified in the manual. For aircraft that are approaching or have exceeded the threshold of the new or revised inspections introduced by this AD, compliance with the threshold inspection may be modified as detailed below:

(1) *Pre Mod 6/1117 Wing Assemblies:*

(i) If the last inspection done of the main wing spar attachment lug fastener holes, before the effective date of this AD, was an eddy current inspection following Bombardier Inc. (formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 5, dated January 11, 2000; or PSM 1–6–11, Revision 6, dated March 28, 2007; do the repeat high frequency eddy current inspection in accordance with the schedule in PSM 1–6–11, Revision 6, dated March 28, 2007.

(ii) If the last inspection done of the main wing spar attachment lug fastener holes, before the effective date of this AD, was an ultrasonic inspection following Bombardier Service Bulletin 6/525, dated September 6, 1996, do the first high frequency eddy current inspection within 1,000 hours time-in-service (TIS) or 2,000 flights, whichever occurs first, after the last ultrasonic inspection. Repetitively inspect thereafter in accordance with the schedule in PSM 1–6–11, dated March 28, 2007.

(2) *Post Mod 6/1117 and Post Mod 6/1630 Wing Assemblies:* If the inspection threshold for the lower wing skin, stringers, and aft

spar lower flange WS122 to WS263 (ribs 8 to 20) has been exceeded or will be exceeded within 6 months after the effective date of this AD, do the initial inspection within the next 500 hours TIS, 1,000 flights, or 6 months after the effective date of this AD, whichever occurs first, following PSM 1–6–11, Revision 6, dated March 28, 2007.

(g) You may take ''unless already done'' credit if the above actions were done following the procedures described in Bombardier Inc. (formerly de Havilland) DHC–6 ''Twin Otter'' PSM 1–6–11, Revision 5, dated January 11, 2000.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI references PSM 1–6–11, Revision 5, dated January 11, 2000. PSM 1–6–11, Revision 6, dated March 28, 2007, has since been issued and is referenced for compliance in this AD.

Other FAA AD Provisions

(h) 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: George Duckett, Aerospace Engineer, Airframe and Propulsion Branch, FAA, New York Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone: (516) 228–7325; 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 (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

(i) Refer to MCAI Transport Canada AD No. CF–2000–14, dated May 25, 2000; and Viking Air Limited Structural Components Service Life Limits Manual PSM 1–6–11, Revision 6, dated March 28, 2007, for related information.

Issued in Kansas City, Missouri, on November 6, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22264 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 122

[USCBP–2007–0064]

RIN 1651–AA41

Advance Information on Private Aircraft Arriving and Departing the United States

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document provides an additional 15 days for interested persons to submit comments on the proposed rule to amend the Customs and Border Protection (CBP) regulations pertaining to pilots of any private aircraft arriving in the United States from a foreign port or location or departing the United States for a foreign port or location. The proposed rule was published in the **Federal Register** on September 18, 2007, and the comment period was scheduled to expire on November 19, 2007.

DATES: Comments on the proposed rule published at 72 FR 53394, September 18, 2007, must be received on or before December 4, 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 via docket number USCBP–2007–0064.
- *Mail:* Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Ave., NW., (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and document number for this rulemaking. All comments received will be posted without change to *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 during regular business days between the hours of 9 a.m. and 4:30 p.m. at The Office of International Trade, 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.

FOR FURTHER INFORMATION CONTACT: For Operational Matters—Michael Kaneris, Office of Field Operations, Customs and Border Protection, 202–344–1584. For Legal Matters—Glen Vereb, Branch Chief, Office of International Trade, Regulations & Rulings, Customs and Border Protection, 202–572–8700.

SUPPLEMENTARY INFORMATION:

Background

CBP published a notice of proposed rulemaking in the **Federal Register** (72 FR 53394) on September 18, 2007, proposing to amend the CBP regulations pertaining to private aircraft arriving in the United States from a foreign port or location or departing the United States for a foreign port or location. The proposed rule would require any pilot of a private aircraft to submit advance electronic information regarding each individual traveling onboard the aircraft no later than 60 minutes before the arriving private aircraft departs from a foreign location for the United States, and no later than 60 minutes before a private aircraft departs a United States airport or location for a foreign location. The proposed rule would also amend CBP regulations to add data elements to the existing notice of arrival requirements, add a notice of departure requirement, and clarify landing rights procedures.

The notice of proposed rulemaking invited the public to comment on the proposal. Comments on the proposed rule were requested on or before November 19, 2007.

Extension of Comment Period

In response to the proposed rule published in the **Federal Register**, CBP has received correspondence from various parties requesting an extension of the comment period. A decision has been made to grant an extension of 15 days. Comments are now due on or before December 4, 2007.

Dated: November 9, 2007.

Sandra L. Bell,

Executive Director, Regulations & Rulings, Office of International Trade.

[FR Doc. E7–22309 Filed 11–13–07; 8:45 am]

BILLING CODE 9111–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 15, 27, 90, and 101

[WT Docket No. 07–195; FCC 07–164]

Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we seek comment on service rules for licensed fixed and mobile services, including Advanced Wireless Services (AWS), in the 2155–2175 MHz band (AWS–3). We seek comment on rules for licensing this newly designated spectrum in a manner that will permit it to be fully and promptly utilized to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of the spectrum in this band, while also encouraging development of robust wireless broadband services. We propose to apply our flexible, market-oriented rules to the band in order to meet this objective.

DATES: Comments must be filed on or before December 14, 2007, and reply comments must be filed on or before January 14, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by WT Docket No. 07–195, 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.
- 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: Kevin Holmes, Esq., at 202–418–0564.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, released September 19, 2007. The complete text of this document, including attachments and related Commission documents, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of the *Notice of Proposed Rulemaking* and related Commission documents may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site *http://www.BCPIWEB.com*. When ordering documents from BCPI please provide the appropriate FCC document number, for example, FCC 07–38. The *Notice of Proposed Rulemaking* is available on the Commission's Web site: *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-164A1.doc*.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated 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. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov.cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class. Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Summary of Notice of Proposed Rulemaking

1. In this Notice of Proposed Rulemaking, we consider application, licensing, operating, and technical rules for Advanced Wireless Services (AWS) [1] in the 2155–2175 MHz band (AWS–3). Moreover, because the available spectrum is one 20-megahertz segment as opposed to two separate bands, the symmetrical pairing approach previously used by the Commission for

[1] Advanced Wireless Services is the collective term we use for new and innovative fixed and mobile terrestrial wireless applications using bandwidth that is sufficient for the provision of a variety of applications, including those using voice and data (such as Internet browsing, message services, and full-motion video) content. Although AWS is commonly associated with so-called third generation (3G) applications and has been predicted to build on the successes of such current-generation commercial wireless services as cellular and Broadband Personal Communications Services (PCS), the services ultimately provided by AWS licensees are limited only by the Fixed and Mobile designation of the spectrum we allocate for AWS and the service rules we ultimately adopt for the bands.

AWS spectrum[2] is not possible. Therefore, among other things, we:

► Seek comment on the use of an ''uplink/downlink approach'' to licensing the spectrum, which would permit the use of technologies that allow for both mobile and base transmissions in the band, such as technologies based on Time Division Duplexing (TDD) or Half-Duplex Frequency Division Duplexing (HFDD),[3] and on methods to resolve any interference challenges that may be associated with such an approach.

► Seek comment on a ''structured uplink/downlink approach,'' which would permit both mobile-plus-base transmit operations and base transmit operations, but only in particular parts of the band, as dictated by the band plan set by the Commission.

► Seek comment on a ''downlink approach'' for the AWS–3 spectrum, which would limit use of the 2155–2175 MHz band to base transmissions only, but would enable licensees to use this spectrum in combination with other Frequency Division Duplexing (FDD) bands.[4]

► Seek comment on whether an auction of licenses in a simplified subset of alternative band plans might best further our overall goals in this proceeding.

► Seek comment on the appropriate license block size for the 2155–2175 MHz band under each of the three technical approaches under consideration for this band.

► Seek comment on whether to license the band using a geographic area licensing scheme, under our flexible, market-oriented part 27 rules, as well as on the appropriate geographic license block size for the band.

► Seek comment on interference issues specific to the band under each of the three technical approaches under consideration for this band.

► Seek comment on whether to adopt a boundary limit approach to limit co-channel interference that could be caused by AWS licensees operating in the 2155–2175 MHz band.

► Propose that AWS licensees operating in the 2155–2175 MHz band should be required to coordinate with incumbent Fixed Service (FS) licensees operating on co-channel and adjacent channel spectrum in the band prior to initiating operations.

► Seek comment on our proposals on the power limits, out-of-band emission restrictions, and other technical or operational requirements that might be needed to prevent harmful interference to operations in adjacent bands.

► Seek comment on whether any limit should be placed on the height-above-average-terrain (HAAT) of base or fixed station antennas operating in the 2155–2175 MHz band.

► Propose to permit any use of this spectrum that is consistent with the band's fixed and mobile allocations.

► Seek comment on whether we should adopt any of the various specific conditions proposed by parties that filed applications for operation in this band and other parties, including conditions to govern the provision of broadband services at particular data rates, with specific build out requirements, and pricing plans, with potential access requirements, content restrictions and free access to public safety entities.[5] For example, M2Z Networks, Inc. (M2Z), has suggested that the licensees in this band should be subject to certain public interest requirements, including the provision of free broadband Internet service at certain data rates and certain population-based build out benchmarks. NextWave Broadband, Inc., suggested the Commission should consider licensing this spectrum in a manner that would avoid the filing of mutually exclusive applications, and accordingly allow licensing on a non-auctioned basis.

► Seek comment on the benefits and costs of establishing an unlicensed regime, either in lieu of a licensed regime or as a complement to the licensed regime (by permitting an unlicensed underlay).

► Seek comment on using a non-exclusive licensing approach for this band, similar to the rules adopted in the 3650–3700 MHz band.

► Propose that the foreign ownership provisions of § 27.12 should apply to applicants applying for licenses in the 2155–2175 MHz band.

► Propose not to impose a spectrum aggregation limit or eligibility restrictions for the 2155–2175 MHz band.

► Note that, to the extent that a licensee in the 2155–2175 MHz band provides a Commercial Mobile Radio Service, such service would be subject to the provisions of part 20 of the Commission's rules, including 911/E911 and hearing aid-compatibility (HAC) requirements, along with the provisions in the rule part under which the license was issued.

► Propose that the threshold for environmental review of fixed transmission facilities should be an effective radiated power (ERP) greater than 1000 Watts.

► Propose to employ our part 1 competitive bidding rules, if the Commission establishes a licensing regime that requires the use of competitive bidding to resolve mutually exclusive applications; seek comment on whether any of our part 1 rules would be inappropriate or should be modified for an auction of licenses in this band.

► Propose to define a small business as an entity with average annual gross revenues for the preceding 3 years not exceeding $40 million, and a very small business as an entity with average annual gross revenues for the preceding 3 years not exceeding $15 million.

► Propose to provide small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent if we establish non-nationwide service areas, and seek comment on whether, if we decide to license the 2155–2175 MHz

[2] *See* Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02–353, *Report and Order*, 18 FCC Rcd 25162 (2003) (*AWS–1 Service Rules Report and Order*); *modified by* Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02.353, *Order on Reconsideration*, WT Docket No. 02–353, 20 FCC Rcd 14058 (2005); *see also* Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands; Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 04–356; WT Docket No. 02–353, *Notice of Proposed Rulemaking*, 19 FCC Rcd 19263 (2004) (*AWS–2 Service Rules NPRM*).

[3] TDD, for example, places base and mobiles transmissions on the same channel, but in different time slots, while HFDD uses separate, adjacent channels in different time slots for base and mobile transmissions. We note that several of the recently dismissed applications for licenses in this band, *see infra* note 5, proposed technologies that would allow the use of both mobile and base station transmissions. FDD, on the other hand, employs spectrally separated base and mobile transmit channels with base and mobile transmissions occurring at the same time. WiMax is a new application, which supports TDD, FDD, and HFDD access technologies.

[4] For example, if the AWS–3 spectrum at 2155–2175 MHz is used for base-transmit, it could theoretically be paired with mobile-transmit spectrum from the Personal Communications Services (PCS) at 1850–1910 MHz, AWS–1 at 1710–1755 MHz, proposed AWS–2 spectrum at 1915–1920 MHz or 2020–2025 MHz, or Nextel/1.9 GHz spectrum at 1910–1915 MHz.

[5] Seven parties filed applications for licenses to provide service in the 2155–2175 MHz band, which we recently dismissed without prejudice in an Order released August 31, 2007. *See* Applications for License and Authority to Operate in the 2155–2175 MHz Band, WT Docket No. 07–16, *Order*; Petitions for Forbearance Under 47 U.S.C. 160, WT Docket No. 07–30, *Order*, FCC 07–161 (rel. Aug. 31, 2007) (AWS–3 Applications and Forbearance Petitions Order), Appeal and Petitions for Reconsideration pending. On May 5, 2006, M2Z filed an application seeking an exclusive, nationwide, 15-year license in the 2155–2175 MHz band to operate a wireless broadband network. Six additional applications for license and authority to operate in the band were filed in March 2007—by Commnet Wireless, LLC; McElroy Electronics Corp.; NetfreeUS, LLC; NextWave Broadband, Inc.; Open Range Communications, Inc.; and TowerStream Corporation.

band on a nationwide basis, small business credits would be appropriate for this band.

2. Since 2001, the Commission has designated 130 megahertz of spectrum for use by advanced wireless services.[6] Corresponding service rules have been adopted for 90 megahertz of the spectrum in the 1710–1755 MHz and 2110–2155 MHz bands (AWS–1).[7] In addition, service rules have been proposed for another 20 megahertz in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz, and 2175–2180 MHz bands (AWS–2).[8] In this Notice of Proposed Rulemaking, the Commission proposes service rules for an additional 20 megahertz of spectrum for a third AWS block (AWS–3) at 2155–2175 MHz, adjacent to the 2110–2155 MHz band of AWS–1 and the 2175–2180 MHz band of AWS–2.

3. There are numerous incumbents in the 2155–2175 MHz band, which contains over 1,800 active licenses. These incumbents consist primarily of Fixed Microwave Service (FS) and Broadband Radio Service (BRS) licensees, who are subject to relocation by emerging technology (ET) licensees (including future AWS–3 licensees). The Commission has already addressed relocation and cost-sharing issues with respect to the 2155–2175 MHz band in a separate proceeding based on the assumption that the AWS–3 band would be exclusively licensed.[9] Generally, incumbents retain primary status unless and until an ET licensee requires use of the spectrum. AWS–3 licensees will be required to relocate, or share in the cost of a relocation paid for by other AWS licensees (including, possibly, AWS–1 licensees), until the relocation and cost sharing rules ''sunset.'' For FS, the rules sunset ten years after the first ET license is issued in the 2160–2175 MHz band.[10] For BRS, the rules sunset 15 years after the first AWS license is issued in the 2150–2160/62 MHz band.[11] Although we do not anticipate having to adopt any further rules regarding these issues, we do seek comment on whether changes may be necessary in light of the service rules we adopt.

Procedural Matters

Ex Parte Rules—Permit-But-Disclose

4. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules.[12]

Initial Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act of 1980 (RFA),[13] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the NPRM. The analysis is found in the attached Appendix. We request written public comment on the analysis. Comments must be filed by the dates listed in this NPRM, and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Paperwork Reduction Analysis

6. This document contains proposed new or modified 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) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due 60 days after date of publication in the **Federal Register.** 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,[14] we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

A. Need for, and Objectives of, the Proposed Rules

7. The NPRM contemplates service rules for licensed fixed and mobile services, including advanced wireless services (AWS), in the 2155–2175 MHz band. These service rules include application, licensing, operating and technical rules and competitive bidding provisions for the AWS–3 spectrum band.[15] Consistent with the Commission's policy objective of affording licensees the flexibility to deploy new technologies, to implement service innovations, and to respond to market forces, the NPRM proposes service rules that provide AWS–3 licensees with the flexibility to provide

[6] In the November, 2002 *AWS Allocation Second Report and Order*, the Commission identified and reallocated 90 megahertz (1710–1755 MHz and 2110–2155 MHz bands) to the fixed and mobile services for AWS. *See* Amendment of part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00–258, *Second Report and Order*, 17 FCC Rcd 23193 (2002) (*AWS Allocation Second Report and Order*). In the September, 2004 *AWS Allocation Sixth Report and Order*, the Commission designated 20 megahertz (1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz, and 2175–2180 MHz bands) for fixed and mobile services that include AWS. *See* Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00–258, *Sixth Report and Order, Third Memorandum Opinion and Order and Fifth Memorandum Opinion and Order*, 19 FCC Rcd 20720 (2004) (*AWS Allocation Sixth Report and Order*). With regard to the 20-megahertz block at 2155–2175 MHz, the 2160–2165 MHz band was already allocated for non-Federal Government fixed services and mobile services. *See* 47 CFR 21, 22, and 101. In the *AWS Allocation Third Report and Order*, the 2165–2180 MHz band was reallocated for fixed and mobile services, including AWS. *See* Amendment of part 2 of the Commission's Rules to allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, *Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order*, 18 FCC Rcd. 2223, 2238 ¶ 28 (2002) (*AWS Allocation Third Report and Order & NPRM*). In 2005, the Commission allocated 2155–2160 MHz for fixed and mobile services, including AWS, and designated the entire 2155–2175 MHz band as AWS spectrum. *See* Amendment of part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, *Eighth Report and Order and Fifth Notice of Proposed Rulemaking and Order*, 20 FCC Rcd 15866, 15872 ¶ 9 (2005) (*AWS Allocation Eighth Report and Order and Fifth NPRM*).

[7] *See AWS–1 Service Rules Report and Order*, *supra* note 2.

[8] *See AWS–2 Service Rules NPRM, supra* note 2.

[9] *See* Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, *Ninth Report and Order and Order*, FCC 06–45 (rel. April 21, 2006) (*AWS Ninth R&O*). *See also AWS Allocation Eighth Report and Order and Fifth NPRM*).

[10] *See* 47 CFR 101.79(a)(1) (10-year sunset date); 27 CFR 27.1174 (Termination of Cost-Sharing Obligations).

[11] *See* 47 CFR 27.1253(a) (Sunset Provisions).

[12] *See generally* 47 CFR 1.1202, 1.1203, 1.1206.

[13] 5 U.S.C. 603.

[14] Pub. L. 107–198, *see* 44 U.S.C. 3506(c)(4).

[15] *See* NPRM, para. 1, *supra.*

any fixed or mobile service, including advanced wireless services, that is consistent with the allocations [16] for this spectrum. To promote flexibility, the NPRM also proposes to license this spectrum under the Commission's market-oriented part 27 rules. The substantial flexibility provided by the part 27 rules would encourage the deployment of a wide variety of fixed and mobile services. The market-oriented licensing framework for these bands would ensure that this spectrum is efficiently utilized and will foster the development of new and innovative technologies and services, as well as encourage the growth and development of broadband services, ultimately leading to greater benefits to consumers.

8. The NPRM seeks to adopt rules that will reduce regulatory burdens, promote innovative services, and encourage flexible use of this spectrum. Such an approach opens up economic opportunities to a variety of spectrum users, which could include small businesses. The NPRM considers various proposals and alternatives partly because the Commission seeks to minimize, to the extent possible, the economic impact on small businesses.

9. The NPRM contemplates three different technological approaches. First, the NPRM contemplates an approach that would allow uplink/downlink in the band, possibly resulting in an unpaired 20-megahertz spectrum band that could be used for Time Division Duplexing (TDD) or Half-Duplex Frequency Division Duplexing (HFDD) based technology. Second, the Commission could also adopt a structured uplink/downlink approach where a mix of both base-transmit and mobile-and-base transmit services would be utilized in the band. Under this approach, some or portions of the 2155–2175 MHz band could be asymmetrically paired with other base- and mobile-transmit spectrum blocks with pairings composed of different bandwidths. Alternatively, the NPRM seeks comment on an approach that would permit only base transmissions in the band. Under this approach, some or portions of the 2155–2175 MHz band could be asymmetrically paired with other base- and mobile-transmit spectrum blocks with pairings composed of different bandwidths. The Commission contemplates rules which will determine the appropriate approach to utilize.

10. Prior to the adoption of the NPRM, the Commission adopted an *Eighth Report and Order,* in ET Docket No. 00–258, allocating 2155–2160 MHz for fixed and mobile services, including AWS, and designated the entire 2155–2175 MHz band as AWS spectrum.[17] The Commission's goal is to enable service providers to maximize the use of this spectrum with minimal transaction costs. Within the limits of the licensed fixed and mobile allocation, the marketplace and not the Commission will determine how this spectrum is used. Thus, the NPRM's proposals allow flexibility for licensees to provide third generation (3G) and other advanced wireless services in the near term, while fostering innovation and agility so they can quickly adapt to changes in technological capabilities and marketplace conditions into the future. It is the Commission's belief that the licensing and service rules proposed in the NPRM will benefit consumers by giving them the services and value that they demand, and thereby provide the new business opportunities necessary to support continued service enhancements by licensees.

11. The Commission also contemplates rules which will have the effect of setting performance requirements. An issue we frame is whether licensees in the 2155–2175 MHz band should be subject to any performance requirements in addition to a substantial service requirement at license renewal. The NPRM notes that in some services the Commission has imposed minimum coverage requirements on licensees to ensure that spectrum is used effectively and service is implemented promptly. A related issue is whether the Commission should establish any specific coverage requirements in the 2155–2175 MHz band, or whether coverage criteria should be adopted as one means, but not the exclusive means, of meeting a substantial service requirement. We propose for consideration the issue of whether licensees should be subject to interim performance requirements prior to the end of the license term.

12. The NPRM also contemplates rules that will allow licensees in the 2155–2175 MHz band to partition their service areas and to disaggregate their spectrum. If the Commission permits partitioning, then the partitioning licensee would have to include with its request a description of the partitioned service area, a calculation of the population of the partitioned service area, and the licensed geographic service area.

13. The NPRM also contemplates rules on a number of technical issues and licensing obligations. A major concern in this context is about how best to control in-band and out-of-band interference, appropriate power limits, RF safety limits, and Canadian and Mexican coordination.[18] The NPRM also proposes to permit applicants to request common carrier status as well as non-common carrier status for authorization in a single license, rather than to require the applicant to choose between common carrier and non-common services.[19]

14. In addition, the NPRM contemplates operations for licensing the new services. For example, the FCC is considering whether to license the AWS–3 spectrum using geographic licensing, as opposed to site-by-site licensing.

15. The Commission contemplates the appropriate size(s) of the geographic service area or areas on which licenses should be based. The Commission also contemplates the benefits and costs of establishing an unlicensed regime, either in lieu of a licensed regime or as a complement to a licensed regime, and/or non-exclusive licensing approach.[20]

16. Although the Commission does not know precisely what types of services may be developed in the 2155–2175 MHz band, the Commission anticipates that the services that will be deployed in the band may have capital requirements comparable to those in the broadband PCS service and AWS–1 in the 1710–1755 MHz and 2110–2155 MHz bands because of their adjacency, or close proximity, to the AWS–3 spectrum band and the record in related proceedings suggest similar services are being contemplated for all these bands. In particular, the Commission anticipates that licensees in the 2155–2175 MHz band will be presented with issues and capital and other cost requirements similar to those presented to broadband PCS licensees and licensees in the 1710–1755 MHz and 2110–2155 MHz bands, including issues and costs involved in relocating incumbents, and developing markets, technologies, and services. Because of those anticipated similarities and other technical and spectral benefits, the Commission is considering the possibility of uplink/downlink use, or structured uplink/downlink and or downlink use, involving asymmetrically pairing AWS–3 spectrum with adjacent AWS or PCS spectrum bands.

17. In light of these similarities, the NPRM concurrently contemplates the adoption of the same small business size standards for the 2155–2175 MHz band

[16] *Id.*

[17] *See AWS Allocation Eighth Report and Order and Fifth NPRM.*

[18] *See* NPRM, para. 1, *supra.*

[19] *Id.*

[20] *Id.*

as the Commission adopted for broadband PCS and AWS–1 in the 1710–1755 MHz and 2110–2155 MHz bands. Accordingly, if the Commission adopts bidding credits, the NPRM proposes to define a small business as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a very small business as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. [21]

18. The Commission also proposes, in the event that it establishes non-nationwide service areas, to provide small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent, as set forth in the standardized schedule in part 1 of the Commission's rules. Accordingly, we frame the issue of the use of these standards and associated bidding credits for applicants to be licensed in the 2155–2175 MHz band, with particular focus on the appropriate definitions of small and very small businesses as they may relate to the size of the geographic area to be covered and the spectrum allocated to each license. In discussing these issues, commenters are requested to address the expected capital requirements for services in these bands and other characteristics of the service. Commenters are also invited to use comparisons with other services for which the Commission has already established auction procedures as a basis for their comments regarding the appropriate small business size standards.

19. The FCC seeks comment on all the rules contemplated above and on optional ways of implementing such contemplated rules, and on any other possible rules which commenters wish to suggest and discuss relative to the Regulatory Flexibility Act.

B. Legal Basis

20. The proposed action is authorized pursuant to §§ 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332 and 333 of the Communications Act of 1934, 47 U.S.C. §§ 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 307, 308, 309, 310, 319, 324, 332, 333.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

21. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. [22] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government jurisdiction.'' [23] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. [24] A small business is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. [25]

22. The Commission has not yet determined how many licenses will be awarded in the 2155–2175 MHz bands. Moreover, the Commission does not yet know how many applicants or licensees in these bands will be small entities. Thus, the Commission assumes, for purposes of this IRFA, that all prospective licensees are small entities as that term is defined by the SBA or by our proposed small business definitions for these bands. Though the Commission does not know for certain which entities are likely to apply for these frequencies, we note that the 2155–2175 MHz bands are comparable to cellular service and personal communications service. [26]

Accordingly, we believe the following regulated entities will be directly affected by our contemplated rules.

23. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economics census categories of ''Paging'' [27] and ''Cellular and Other Wireless Telecommunications.'' [28] Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees.

Paging. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.[29] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[30] Thus, under this category and associated small business size standard, the majority of firms can be considered small.

Cellular and Other Wireless Telecommunications. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.[31] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[32] Thus, under this second category and size standard, the majority of firms can, again, be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

24. New recordkeeping or reporting requirements are contemplated in the NPRM. However, until the FCC resolves how to assign license(s) for the band, *e.g.,* unlicensed vs. licensed approach, these requirements are difficult to describe with great specificity because the Commission does not know precisely what types of services may be developed in the 2155–2175 MHz band.

25. Nonetheless, the following recordkeeping or reporting requirements seem applicable under a licensed approach. Entities interested in acquiring an initial license to use the spectrum in the 2155–2175 MHz band will be required to file license applications using the Commission's automated Universal Licensing System (ULS). ULS is an online electronic filing system that also serves as a powerful information tool that enables potential licensees to research applications, licenses, and antenna structures. It also keeps the public informed with weekly public notices, FCC rulemakings, processing utilities, and a telecommunications glossary. ULS also features a Geographic Information System (GIS), a digital mapping technology that identifies spectrum use in relation to geographic areas. As in other services, licensees in these bands

[21] We are coordinating these proposed small business size standards with the U.S. Small Business Administration.

[22] 5 U.S.C. 603(b)(3).

[23] 5 U.S.C. 601(6).

[24] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632) Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.'' 5 U.S.C. 601(3).

[25] Small Business Act, 15 U.S.C. 632 (1996).

[26] *See* IRFA at para. 19, *supra.*

[27] 13 CFR 121.201, NAICS code 517211.

[28] 13 CFR 121.201, NAICS code 517212.

[29] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517211 (issued Nov. 2005).

[30] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[31] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517212 (issued Nov. 2005).

[32] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

would be allowed to provide all allowable services anywhere within their licensed area. The Commission's current mobile service license application requires an applicant for mobile services to identify the regulatory status of the service(s) they intend to provide, since service offerings may bear on eligibility and other statutory and regulatory requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its adopted approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[33]

27. Specifically to assist small businesses, the NPRM proposes to establish small business size standards and associated small business bidding credits for the 2155–2175 MHz band in the event that licenses are assigned by competitive bidding and licensing is based on non-nationwide geographic areas.[34] The NPRM proposes a bidding credit of 15 percent for small businesses and a bidding credit of 25 percent for very small businesses. The NPRM seeks comment on whether small business bidding credits would be appropriate if a nationwide licensing scheme is adopted for the 2155–2175 MHz band. The NPRM notes that the implementation costs associated with a nationwide license in these bands is presumed to be very high, and it is not clear whether small businesses could attract the capital necessary to implement and provide nationwide service. Accordingly, we ask commenters to address the expected capital requirements for services in these bands and other characteristics of the service. The Commission invites commenters to use comparisons with other services for which the Commission has already established auction procedures as a basis for their comments regarding the appropriate small business size standards and associated small business bidding credits. The Commission requests comment on any other alternatives to minimize significant economic impact on small entities.

28. The NPRM solicits comment on various alternatives regarding the service rules for the 2155–2175 MHz band.[35] The NPRM seeks to adopt rules that will reduce regulatory burdens, promote innovative services and encourage flexible use of this spectrum. The NPRM also seeks to open up economic opportunities to a variety of spectrum users, which could include small businesses. The NPRM considers various proposals and alternatives partly because the Commission seeks to minimize, to the extent possible, the economic impact on small businesses.[36] The Commission requests comment on any other alternatives to minimize significant economic impact on small entities.

29. The NPRM invites comment on various alternative licensing and service rules and on a number of issues relating to how the Commission should craft service rules for the AWS–3 spectrum that could have an impact on small entities. For example, the Commission seeks comment on the size of spectrum blocks for these frequencies and how the size of spectrum blocks would impact small entities. The NPRM proposes a geographic area approach to service areas, as opposed to a station-defined licensing approach, and seeks comment on the appropriate size of service areas. Specifically, the NPRM asks for comment on whether smaller geographic areas would better serve the needs of small entities. The NPRM explains that the Commission's approach to determining optimum geographic area license size(s) attempts to accommodate the likely range of applicant desires by balancing efficiency with the policy goal of disseminating licenses among a wide variety of applicants. The NPRM notes that the Commission wishes to foster service to rural areas and tribal lands, and to promote investment in and rapid deployment of new technologies and services. The NPRM also notes that small license areas may favor smaller entities and regional business plans and no interest in providing large-area service. In summary, the NPRM seeks comment on the advantages and disadvantages to small entities of a large geographic licensing scheme over a small one in terms of impact on rural and small entities. The Commission requests comment on any other alternatives to minimize significant economic impact on small entities.

30. As noted earlier, the NPRM seeks comment on permitting geographic partitioning and spectrum disaggregation. The NPRM notes that geographic partitioning and spectrum disaggregation is a tool utilized by the Commission to promote efficient spectrum use and economic opportunity for a wide variety of applicants, including small business, rural telephone, minority-owned, and women-owned applicants. The NPRM seeks comment on the benefits and costs of partitioning and disaggregation, and whether it promotes the public interest. Finally, the NPRM, seeks comment on whether any band-specific limits on spectrum aggregation are necessary or appropriate in this case, and how this would impact the marketplace, including small entities. The Commission requests comments on any other alternatives to minimize significant economic impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

31. None.

Ordering Clauses

32. Pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332 and 333 of the Commissions Act of 1934, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333, that this Notice of Proposed Rulemaking is hereby adopted.

33. Notice is given of the proposed regulatory changes described in this Notice of Proposed Rulemaking, and that comment is sought on these proposals.

34. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–5632 Filed 11–13–07; 8:45 am]

BILLING CODE 6712–01–M

[33] *See* U.S.C. 603(c)(1)–(4).

[34] *See* IRFA para. 19, *supra.*

[35] *See, e.g.,* NPRM, para. 1, *supra.*

[36] *See, e.g.,* NPRM, para. 1 (competitive bidding provisions for designated entities), *supra.*

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 9, 42, and 52

[FAR Case 2007–006; Docket 2007–0001; Sequence 11]

RIN: 9000–AK80

Federal Acquisition Regulation; FAR Case 2007–006, Contractor Compliance Program and Integrity Reporting

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR), at the request of the Department of Justice (DoJ), in order to require contractors to have a code of ethics and business conduct, establish and maintain specific internal controls to detect and prevent improper conduct in connection with the award or performance of Government contracts or subcontracts, and to notify contracting officers without delay whenever they become aware of violations of Federal criminal law with regard to such contracts or subcontracts.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before January 14, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2007–006 by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.*To search for any document, first select under ''Step 1,'' ''Documents with an Open Comment Period'' and select under ''Optional Step 2,'' ''Federal Acquisition Regulation'' as the agency of choice. Under ''Optional Step 3,'' select ''Proposed Rules''. Under ''Optional Step 4,'' from the drop down list, select ''Document Title'' and type the FAR case number ''2007–006''. Click the ''Submit'' button. Please include your name and company name (if any) inside the document. You may also search for any document by clicking on the ''Search for Documents'' tab at the top of the screen. Select from the agency field ''Federal Acquisition Regulation'', and type ''2007–006'' in the ''Document Title'' field. Select the ''Submit'' button.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2007–006 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2007–006.

SUPPLEMENTARY INFORMATION:

A. Background

On May 23, 2007, the Office of Federal Procurement Policy received a request from the Department of Justice to open a FAR case to require contractors to have a code of ethics and business conduct, establish and maintain specific internal controls to detect and prevent improper conduct in connection with the award or performance of Government contracts or subcontracts, and to notify contracting officers without delay whenever they become aware of violations of Federal criminal law with regard to Government contracts or subcontracts.

The Councils published a proposed rule under FAR Case 2006–007, Contractor Code of Ethics and Business Conduct, 72 FR 7588, February 16, 2007. That rule proposed creation of a new Subpart 3.10 to address the requirements for a contractor code of ethics and business conduct, and an associated clause at FAR 52.203–XX. The comment period on that proposed rule closed on April 17, 2007, and 27 responses were received. It is still the intent of the Councils to issue a final rule under that case, based on analysis of the public comments received, except that the final rule will not address mandatory disclosure to the Government.

That proposed rule covers some of the same areas requested by DoJ. However, several aspects of the DoJ request go beyond that proposed rule. The Councils therefore have decided to issue a new proposed rule under this FAR case 2007–006 to cover these new proposals.

Public comments are requested on the new changes not included in prior FAR Case 2006–007. Comments are also requested on mandatory disclosure, and full cooperation, which were in FAR case 2006–007 as examples in the clause of an internal control system. Also note that some paragraphs in that rule, which were not necessary for this rule, were not repeated and will be part of that case's final rule (hotline posters).

The new changes in this rule include:

Compliance program as part of contractor's obligationto have ''a satisfactory record of integrity and business ethics''

As requested by DoJ, the Councils propose to amend the general standards of responsibility at FAR 9.104–1 to add a cross reference to Subpart 42.15, and to add at FAR 42.1501 ''the contractor's record of integrity and business ethics'' as relevant information to be included in past performance information. FAR 42.1501 already includes the requirement to report the contractor's record of conforming to contract requirements, which will include any information that the contractor has not complied with the clause at FAR 52.203–XX. For contractors that have had prior contracts subject to these new requirements, compliance as reflected in past performance rating will be an element for consideration in assessing whether a contractor meets the standard of having a satisfactory record of integrity and business ethics.

Applicability to small business concerns

The Councils propose that clause at FAR 52.203–XX be included in any contract that exceeds $5 million, but that the formal ethics awareness program and internal control system are not required if the contractor is a small business concern. This directly reduces the burden on small business concerns.

U.S. Sentencing Guidelines

The Councils propose to modify the clause at FAR 52.203–XX, Contractor Code of Ethics and Business Conduct, which was proposed under FAR Case 2006–007, to more closely match the U.S. Sentencing Commission Guidelines Manual, Section 8B2.1 (available at *http://www.ussc.gov/*). Not only DoJ requests this, but also a number of respondents to the proposed FAR rule 2006–007. The U.S. Sentencing Guidelines provide guidance on what the U.S. Sentencing Commission expects in the way of an effective compliance and ethics program from organizations convicted of a felony or Class A misdemeanor. DoJ and other respondents to the FAR Case 2006–007 proposed rule considered that that proposed rule left out important elements that are covered in the U.S. Sentencing Guidelines and that this can

create confusion. Businesses (especially small businesses) may believe they have met all the compliance requirements of the U.S. Government by following the FAR; this will create a false sense of security. Therefore, this rule proposes the following changes to the clause at FAR 52.203–XX:

• Add definitions of ''agent,'' and ''principals.'' The definition of ''principals,'' is the same as the definition used at FAR 52.209–5. This definition has the advantage that it is already included in the FAR, and includes all the personnel covered in the U.S. Sentencing Guidelines definitions of ''governing authority'' ''high-level personnel,'' and ''substantial authority personnel.''

• Amplify the paragraph FAR 52.203–XX(b)(2) requirement to promote compliance with the code of business ethics.

• Provide more detail in paragraph FAR 52.203–XX(c)(1) with regard to the ongoing ethics and business conduct awareness and compliance program.

• In paragraph FAR 52.203–XX(c)(2), make all the stated elements of the internal control system mandatory, rather than guidance.

• Add a new paragraph FAR 52.203–XX(c)(2)(ii)(A) requiring assignment of responsibility at a sufficiently high level of the organization and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

• Provide additional detail in paragraph FAR 52.203–XX(c)(2)(ii)(C) with regard to the requirement for periodic reviews.

• Provide that disciplinary action shall be taken not only for improper conduct, but also for failing to take reasonable steps to prevent or detect improper conduct by others.

Contractor Integrity Reporting

The Councils propose to address the reporting of violations of Federal criminal law in connection with the award or performance of a Government contract or subcontract conduct as follows:

• Add at FAR 3.1002 a cross-reference to FAR 9.406–2(b)(1)(v) and 9.407–2(a)(7), that contractors may be suspended and debarred for knowing failure to timely disclose a violation of Federal criminal law in connection with the award or performance of any Government contract performed by the contractor or a subcontract awarded thereunder.

• Modify the clause at FAR 52.203–XX(b)(3), which applies to both large and small business concerns, to require notification to the agency Office of the Inspector General, with a copy to the contracting officer, whenever the contractor has reasonable grounds to believe that a violation of criminal law has been committed in connection with the award or performance of the contract or any subcontract thereunder.

• Modify the clause at FAR 52.203–XX(c), which does not apply to small business concerns, to mandate that the internal control system of the contractor shall also include this requirement to report violations of Federal criminal law in connection with the award or performance of any Government contract performed by the contractor or a subcontract awarded thereunder.

According to DoJ, the requirement for mandatory disclosure is necessary because few companies have actually responded to the invitation of DoD that they report or voluntarily disclose suspected instance of violations of Federal criminal law relating to the contract or subcontract.

The Councils invite comment as to whether there should be any appropriate limitation on the reporting requirement that accomplishes the objectives of this rule, such as the time period during which the violations to be reported occurred (look back).

Use of clause in contracts for the acquisition of commercial items awarded under FAR Part 12

The Councils do not recommend application of the clause to contracts for the acquisition of commercial items. Requiring commercial contractors to comply with the rule would not be consistent with Public Law 103–355 that requires the acquisition of commercial items to resemble customarily commercial marketplace practices to the maximum extent practicable. Commercial practice encourages, but does not require, contractor codes of business ethics conduct. In particular, the intent of FAR Part 12 is to minimize the number of Government-unique provisions and clauses. The policy at FAR 3.1002 of the proposed rule does apply to commercial contracts. All Government contractors must conduct themselves with the highest degree of integrity and honesty. However, consistent with the intent of Pub. L. 103–355 and FAR Part 12, the clause mandating specific requirements contractor compliance program and integrity reporting is not required in commercial contracts.

Causes for debarment or suspension

As requested by DoJ, the Councils propose modification of FAR 9.406–2 and 9.407–2 to include new cause for debarment or suspension: a knowing failure to timely disclose an overpayment on a Government contract or violation of Federal criminal law in connection with the award or performance of any Government contract performed by the contractor or any subcontract thereunder.

Clause at FAR 52.203

Consistent with the proposed rule under FAR case 2006–007, the Councils propose use of the clause FAR 52.203–XX in solicitations and contracts expected to exceed $5 million if the performance period is 120 days or more, except for acquisitions under FAR Part 12 or contracts to be performed outside the United States.

Flowdown

The Councils propose flowdown of the clause FAR 52.203–XX to subcontracts valued at over $5 million, consistent with the proposed rule under FAR case 2006–007. The Councils decided that the same rationale that supports a threshold of $5 million for prime contracts, is applicable to subcontracts as well. The other conditions of the proposed rule under FAR case 2006–007 are also still applicable, *i.e.*, performance period of 120 days or more, and the subcontract is not for acquisition of commercial items or to be performed outside the United States.

Full cooperation

In addition, the Councils have included in the proposed rule the requirements that an internal control system must require full cooperation with any Government agencies responsible for audit, investigation, or corrective actions. This requirement was originally derived from the Defense Federal Acquisition Regulation Supplement (DFARS) guidance at DFARS 203.7001(a)(7), with the addition of the word ''audit'' in response to a public comment under FAR case 2006–007.

The Councils are not including this requirement in the final rule to be issued under FAR case 2006–007, in order to allow further public comment and analysis of the relationship to waiver of the attorney-client privilege.

This is a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it requires the contractor (including small business concerns) to notify the agency inspector general and the contracting

officer in writing whenever the contractor has reasonable grounds to believe that a principal, employee, agent, or subcontractor of the contractor has committed a violation of Federal criminal law in connection with the award of performance of any Government contract or subcontract. Although the Councils do not expect this to be a significant burden on small businesses, because it only impacts those small businesses that need to report violations of Federal criminal law in connection with the award or performance of a Government contract, the Councils have prepared an Initial Regulatory Flexibility Analysis (IRFA) for public comment, that is summarized as follows:

This Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603.

The objective of the rule is to emphasize the critical importance of integrity in contracting and reduce the occurrence of improper or criminal conduct in connection with the award and performance of Federal contracts and subcontracts.

The rule imposes a clause that is applicable to contracts and subcontracts that exceed $5 million and with a performance period that exceeds 120 days. The clause does not apply to—

• Acquisition of commercial items, either at the prime or subcontract levels.

• Contracts or subcontracts performed outside the United States.

Although the clause requires all contractors to implement a code of business ethics, the clause requirements for a formal awareness/training program and internal control system will not apply to small business concerns.

The clause imposes a mandatory requirement to notify the agency Office of the Inspector General, with a copy to the contracting officer, whenever the contractor has reasonable grounds to believe that a principal, employee, agent, or subcontractor of the contractor has committed a violation of Federal criminal law in connection with the award or performance of the contract or any subcontract thereunder. All contractors and subcontractors subject to the clause are required to report such violations. In addition, regardless of inclusion of the clause, a new cause for debarment and suspension has been added, for failure to timely report any such known violation of Federal criminal law.

Based on Fiscal Year 2006 data collected from the Federal Procurement Data System, the Councils estimate that this clause will apply to 1800 prime contractors per year, of which 700 companies are small business concerns. The clause also flows down to subcontracts that exceed $5 million, and we estimate that approximately 700 additional small business concerns will meet these conditions. We calculate the number of small business concerns that will be required to submit the report of violation of Federal criminal law with regard to a Government contract or subcontracts as follows:

700 contractors + 700 subcontractors = 1,400×2% = 28.

In addition, although there is no clause required, all contractors will be on notice that they may be suspended or debarred for failure to report known violations of Federal criminal law with regard to a Government contract or subcontract. In Fiscal Year 2006 there were 144,854 small business concern listed in FPDS-NG with unique DUNS numbers. We estimate that of the listed small business concerns, approximately 116,000 (80 percent) will receive contracts in a given fiscal year. Government small business experts guess that at least twice that number of small businesses (232,000) will receive subcontracts. However, the only small business concerns impacted by this cause for suspension or debarment are those small business concerns that are aware of violation of Federal criminal law with regard to their Government contracts or subcontracts. Subtracting out those contracts and subcontracts covered by the clause (700), we estimate this number as follows: (115,300 + 231,300 = 346,600 x .5% = 1,733). We estimate a lower percentage than used for contracts and subcontracts that contain the clause, because these are lower dollar contracts and subcontracts, including commercial contracts, and there may be less visibility into violations of Federal criminal law. Because there is no contract clause, we estimate that only 1 percent of those contractors/ subcontractors that are aware of a violation of Federal criminal law in regard to the contractor or subcontract will voluntarily report such violation to the contracting officer.

The rule requires contractors to report to the agency inspector general and the contracting officer of violations of Federal criminal law in connection with the award or performance of any Government contract or subcontract for contracts and subcontracts that exceed $5 million, excluding contracts/ subcontracts to be performed outside the United States or awarded under FAR Part 12. Such a report would probably be prepared by company management, and would probably involve legal assistance to prepare.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

The Councils adopted the following alternatives in order to minimize the impact on small business concerns:

•The requirement for formal training programs and internal control systems are inapplicable to small business concerns, rather than tying the requirement to a dollar threshold based on contract value, which might make the requirements applicable to some small business concerns.

• The requirement for mandatory reporting is limited to violations of Federal criminal law in connection with performance or award of a Government contract or subcontract, rather than requiring report of any improper conduct, even that which is not a violation of Federal criminal law.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 3, 9, 42, and 52 in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C 601, *et seq.* (FAR case 2007–006), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. Accordingly, the FAR Secretariat will submit a request for approval of a new information collection requirement concerning OMB Number 9000–00XX, Contractor Compliance Program and Integrity Reporting, to the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

There will be an estimated 20 burden hours for the required reporting to the contracting officer of violations of Federal criminal law in connection with the award or performance of any Government contract or subcontract.

Annual Reporting Burden:

Public reporting burden for this collection of information is estimated based on review of Fiscal Year 2006 contract awards as entered in the Federal Procurement Data System, the Councils estimate that 1400 contractors per year will be subject to the new clause FAR 52.203–XX (contracts greater than $5 million, not including contracts awarded under FAR Part 12). The Councils further estimate that of those 1400 contractors, 28 (2 percent) will report violations of Federal criminal law with regard to performance or award of a Government contract or subcontract. In addition, the Councils estimate that 17 contractors that do not have the clause at FAR 52.203–XX in the contract will also report such violations.

The annual reporting burden is estimated as follows:

Respondents: 45
Responses per respondent: 1
Total annual responses: 45
Preparation hours per response: 3
Total response burden hours: 135

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than January 14, 2008 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control Number 9000–00XX, Contractor Compliance

Program and Integrity Reporting, in all correspondence.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–00XX, Contractor Compliance Program and Integrity Reporting, in all correspondence.

List of Subjects in 48 CFR Parts 3, 9, 42, and 52

Government procurement.

Dated: November 7, 2007

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 3, 9, 42, and 52 as set forth below:

1. The authority citation for 48 CFR parts 3, 9, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Add Subpart 3.10 to read as follows:

Subpart 3.10—Contractor Code of Business Ethics and Conduct

Sec.

3.1000 Scope of subpart.
3.1001 [Reserved]
3.1002 Policy.
3.1003 Mandatory requirements.
3.1004 Contract clauses.

3.1000 Scope of subpart.

This subpart prescribes policies and procedures for theestablishment of contractor codes of business ethics and conduct.

3.1001 [Reserved]

3.1002 Policy.

(a) Government contractors must conduct themselves with the highest degree of integrity and honesty.

(b) Contractors should have a written code of business ethics and conduct. To promote compliance with such a code of business ethics and conduct, contractors should have an employee business ethics and compliance training program and an internal control system that—

(1) Are suitable to the size of the company and extent of its involvement in Government contracting;

(2) Facilitate timely discovery of improper conduct in connection with Government contracts; and

(3) Ensure corrective measures are promptly instituted and carried out.

(c) A contractor may be suspended and/or debarred for knowing failure to timely disclose a violation of Federal criminal law in connection with the award or performance of any Government contract performed by the contractor or a subcontract awarded thereunder (see 9.406–2(b)(1)(v) and 9.407–2(a)(7)).

3.1003 Mandatory requirements.

Although the policy in section 3.1002 applies as guidance to all Government contractors, the contractual requirements set forth in the clauses at 52.203–XX, Contractor Code of Business Ethics and Conduct are mandatory if the contracts meet the conditions specified in the clause prescriptions at 3.1004.

3.1004 Contract clauses.

Insert the clause at FAR 52.203–XX, Contractor Code of Business Ethics and Conduct, in solicitations and contracts if the value of the contract is expected to exceed $5,000,000 and the performance period is 120 days or more, except when the contract—

(a) Will be for the acquisition of a commercial item awarded under FAR Part 12; or

(b) Will be performed entirely outside the United States.

PART 9—CONTRACTOR QUALIFICATIONS

3. Amend section 9.104–1 by revising paragraph (d) to read as follows:

9.104–1 General standards.

* * * * *

(d) Have a satisfactory record of integrity and business ethics (for example, see Subpart 42.15);

* * * * *

4. Amend section 9.406–2 by revising paragraph (b)(1) introductory text and adding paragraph (b)(1)(v) to read as follows:

9.406–2 Causes for debarment.

* * * * *

(b)(1) A contractor, based upon a preponderance of the evidence, for any of the following—

* * * * *

(v) Knowing failure to timely disclose—

(A) An overpayment on a Government contract; or

(B) Violation of Federal criminal law in connection with the award or performance of any Government contract or subcontract.

* * * * *

5. Amend section 9.407–2 by redesignating paragraph (a)(7) as (a)(8) and adding a new paragraph (a)(7) to read as follows:

9.407–2 Causes for suspension.

(a) * * *

(7) Knowing failure to timely disclose—

(i) An overpayment on a Government contract; or

(ii) Violation of Federal criminal law in connection with the award or performance of any Government contract or subcontract; or

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

6. Amend section 42.1501 by revising the last sentence to read as follows:

42.1501 General.

* * * It includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; the contractor's record of integrity and business ethics, and generally, the contractor's business-like concern for the interest of the customer.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Add section 52.203–XX to read as follows:

52.203–XX Contractor Code of Business Ethics and Conduct.

As prescribed in 3.1004, insert the following clause:

CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DATE)

(a) *Definitions.* As used in this clause—

Agent means any individual, including a director, an officer, an employee, or an

independent contractor, authorized to act on behalf of the organization.

Principals means officers, directors, owners, partners, and, persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

United States means the 50 States, the District of Columbia, and outlying areas.

(b) *Code of business ethics and conduct.* (1) Within 30 days after contract award, unless the contracting officer establishes a longer time period, the Contractor shall—

(i) Have a written code of business ethics and conduct; and

(ii) Provide a copy of the code to each employee engaged in performance of the contract.

(2) The Contractor shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) The Contractor shall notify, in writing, the agency Office of the Inspector General, with a copy to the Contracting Officer, whenever the Contractor has reasonable grounds to believe that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law in connection with the award or performance of this contract or any subcontract thereunder.

(c) *Business ethics awareness and compliance program and internal control system for other than small businesses.* This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract. The Contractor shall establish the following within 90 days after contract award, unless the contracting officer establishes a longer time period—

(1) *An ongoing business ethics and conduct awareness and compliance program.* (i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level of the organization and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include within the organization principals whom due diligence would have exposed as having engaged in conduct that is illegal or otherwise in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—

(*1*) Monitoring and auditing to detect criminal conduct;

(*2*) Periodic evaluation of the effectiveness of the organization's business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(*3*) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely reporting, in writing, to the agency Office of the Inspector General, with a copy to the Contracting Officer, whenever the Contractor has reasonable grounds to believe that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law in connection with the award or performance of any Government contract performed by the Contractor or a subcontract thereunder; and

(G) Full cooperation with any Government agencies responsible for audit, investigation, or corrective actions.

(d) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of $5,000,000 and a performance period of more than 120 days, except when the subcontract—

(i) Is for the acquisition of a commercial item; or

(ii) Is performed outside the United States.

(2) In altering this clause to identify the appropriate parties, all reports of violation of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

[FR Doc. 07–5670 Filed 11–9–07; 11:21 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–7626–01]

RIN 0648–XC84

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2008 Summer Flounder, Scup, and Black Sea Bass Specifications; 2008 Research Set-Aside Projects

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2008 summer flounder, scup, and black sea bass fisheries and provides notice of three conditionally approved projects that will be requesting Exempted Fishing Permits (EFPs) as part of the Mid-Atlantic Fishery Management Council's (Council) Research Set-Aside (RSA) program. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) require NMFS to publish specifications for the upcoming fishing year for each of these species and to provide an opportunity for public comment. Furthermore, regulations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) require a notice to be published to provide interested parties the opportunity to comment on applications for EFPs. The intent of this action is to establish harvest levels that assure that the target fishing mortality rates (F) or exploitation rates specified for these species in the FMP are not exceeded and to allow for rebuilding of the stocks as well as to provide notice of EFP requests, all in accordance with the Magnuson-Stevens Act.

DATES: Comments must be received on or before December 3, 2007.

ADDRESSES: You may submit comments, identified by RIN 0648–XC84, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Mail and hand delivery: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope:

''Comments on 2008 Summer Flounder, Scup, and Black Sea Bass Specifications.''

• Fax: (978) 281–9135.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the specifications document, including the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and other supporting documents for the specifications are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. These documents are also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Council and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subpart A (General Provisions), subpart G (summer flounder), subpart H (scup), and subpart I (black sea bass).

The regulations outline the process for specifying the annual commercial quotas and recreational harvest limits for the summer flounder, scup, and black sea bass fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries. The measures are intended to achieve the annual targets set forth for each species in the FMP, specified either as an F or an exploitation rate (the proportion of fish available at the beginning of the year that are removed by fishing during the year). Once the catch limits are established, they are divided into quotas based on formulas contained within the FMP.

As required by the FMP, a Monitoring Committee for each species, made up of members from NMFS, the Commission, and both the Mid-Atlantic and New England Fishery Management Councils, reviews the best available scientific information and recommends catch limits and other management measures that will achieve the target F or exploitation rate for each fishery. Consistent with the implementation of Framework Adjustment 5 to the FMP (69 FR 62818, October 28, 2004), each Monitoring Committee meets annually to recommend the Total Allowable Landings (TAL), unless the TAL has already been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas. Further, the TALs may be specified in any given year for the following 1, 2, or 3 years. The Council is not obligated to specify multi-year TALs, but is able to do so, depending on the information available and the status of the fisheries.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) consider the Monitoring Committees' recommendations and any public comment and make their own recommendations. While the Board action is final, the Council's recommendations must be reviewed by NMFS to assure that they comply with FMP objectives and applicable law. The Council and Board made their recommendations at a joint meeting held August 7–9, 2007.

Explanation of Research Set-Aside (RSA)

Background: In 2001, regulations were implemented under Framework Adjustment 1 to the FMP to allow up to 3 percent of the TAL for each species to be set aside each year for scientific research purposes. For the 2008 fishing year, a Request for Proposals was published to solicit research proposals based upon the research priorities that were identified by the Council (71 FR 77726, December 27, 2006).

NMFS has conditionally approved three research projects for the harvest of the portion of the quota that has been recommended by the Council to be set aside for research purposes. In anticipation of receiving applications for EFPs to conduct this research, the Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the activities authorized under the EFPs issued in response to the approved RSA projects would be consistent with the goals and objectives of the FMP. However, further review and consultation may be necessary before a final determination is made to issue any EFP.

For informational purposes, these proposed specifications include a statement indicating the amount of quota that has been preliminarily set aside for research purposes (a percentage of the TAL for each fishery, not to exceed 3 percent, as recommended by the Council and Board), and a brief description of the RSA projects, including exemptions requested, and the amount of RSA requested for each project. The RSA amounts may be adjusted, following consultation with RSA applicants, in the final rule establishing the 2008 specifications for the summer flounder, scup, and black sea bass fisheries. If the total amount of RSA is not awarded, NMFS will publish a document in the **Federal Register** to restore the unused amount to the applicable TAL.

For 2008, the conditionally approved projects may collectively be awarded the following amounts of RSA: 233,192 lb (106 mt) of summer flounder; 214,000 lb (97 mt) of scup; and 85,790 lb (39 mt) of black sea bass. The projects may also be collectively awarded up to 50,000 lb (23 mt) of both Loligo squid and Atlantic bluefish.

2008 RSA Proposal Summaries: The University of Rhode Island submitted a proposal to conduct a fifth year of work in a fishery-independent scup survey that would utilize unvented fish traps fished on hard bottom areas in southern New England waters to characterize the size composition of the scup population. Survey activities would be conducted from May 15 through October 15, 2008, at 10 rocky bottom study sites located offshore, where there is a minimal scup pot fishery and no active trawl fishery, and at two scup spawning ground sites. Up to two vessels would conduct the research survey. Sampling would occur off the coasts of Rhode Island and southern

Massachusetts. Up to three vessels would harvest the RSA during the period January 1 through December 31, 2007. The principle investigators have requested exemptions from trip limits, gear requirements (excluding marine mammal avoidance and/or release devices), and closed seasons for harvest of RSA species. The preliminary RSA requested for this project is 2,000 lb (907 kg) of summer flounder; 64,000 lb (29 mt) of scup; and 24,000 lb (11 mt) of black sea bass.

The Virginia Institute of Marine Science (VIMS) submitted a proposal to conduct a near-shore trawl survey in Mid-Atlantic waters between Gay Head, Massachusetts, and Cape Hatteras, North Carolina, including both Block Island and Rhode Island Sounds. A stratified random sampling of approximately 200 stations will occur in depths between 18–60 feet (8–18 m). The function of the survey would be to provide stock assessment data for summer flounder, scup, black sea bass, Loligo squid, butterfish, Atlantic bluefish, several species managed by the Atlantic States Marine Fisheries Commission (Commission) such as weakfish and Atlantic croaker, and unmanaged forage species. The research aspects of the trawl survey will be conducted by one VIMS scientific research vessel operating under the control of VIMS personnel. This vessel will operate under a Letter of Authorization (LOA) as provided for by the specific exemption for scientific research activities found at 50 CFR 600.745. Up to 35 vessels will harvest the RSA between January 1 through December 31 during commercial fishing operations, except that these vessels have requested exemptions for closed seasons and trip limits to harvest the RSA allocated to the project. The preliminary RSA requested by this project is 150,000 lb (68 mt) of both summer flounder and scup and 50,000 lb (23 mt) each of black sea bass, Atlantic bluefish, and *Loligo* squid.

The National Fisheries Institute (NFI) has submitted a proposal to conduct an evaluation of discard mortality for summer flounder in trawl fisheries. This study is designed to work in concert with a previous summer flounder mortality RSA-funded study conducted in 2007. Combined sources of mortality and injury quantification that occur as part of trawling, tracking and tagging, and scuba diver observation will be utilized to provide an estimate of trawl-related mortality. Research sampling will be conducted adjacent to Little Egg Inlet off the New Jersey coast in September and October 2008. One vessel will conduct the research activities and may simultaneously participate in harvesting RSA, if the season for summer flounder is closed or if more fish, above those needed for the research activities, are caught than are permitted by possession limits. The principle investigators have requested exemption from the commercial summer flounder minimum size so that fish smaller than 14 inches (35.5 cm) may be temporarily retained to assess viability and to affix tags and data transmitters. Up to 35 vessels will harvest the RSA between January 1 through December 31 under during commercial fishing operations, except that these vessels have requested exemptions for closed seasons and trip limits to harvest the RSA allocated to the project. The preliminary RSA requested by this project is 81,192 lb (37 mt) of summer flounder 50,000 lb (23 mt) and 11,790 lb (5 mt) of black sea bass.

Regulations under the Magnuson-Stevens Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

Explanation of Quota Adjustments Due to Quota Overages

This action proposes commercial quotas based on the proposed TALs and Total Allowable Catches (TACs) and the formulas for allocation contained in the FMP. In 2002, NMFS published final regulations to implement a regulatory amendment (67 FR 6877, February 14, 2002) that revised the way in which the commercial quotas for summer flounder, scup, and black sea bass are adjusted if landings in any fishing year exceed the quota allocated (thus resulting in a quota overage). If NMFS approves a different TAL or TAC at the final specifications stage (i.e., in the final rule), the commercial quotas will be recalculated based on the formulas in the FMP. Likewise, if new information indicates that overages have occurred and deductions are necessary, NMFS will publish notice of the adjusted quotas in the **Federal Register**. NMFS anticipates that the information necessary to determine whether overage deductions are necessary will be available by the time the final specifications are published. The commercial quotas contained in these proposed specifications for summer flounder, scup, and black sea bass do not reflect any deductions for overages. The final specifications, however, will contain quotas that have been adjusted consistent with the procedures described above.

Summer Flounder

The Southern Demersal Working Group (SDWG), a technical stock assessment group composed of personnel from the Northeast Fisheries Science Center (NEFSC), NMFS Northeast Regional Office, Council, Commission, state marine fisheries agencies, academia, and an independent participant with stock assessment expertise selected by the Council, met June 19–20, 2007, to update the summer flounder assessment through 2006/2007 based on the most recent available research survey and fisheries catch data. This was a routine annual update, as called for by the FMP. The update utilized the model and methods evaluated and recommended for continued use in the most recent peer review conducted by the NMFS Office of Science and Technology Division (S&T) in 2006.

The 2007 SDWG update shows that summer flounder are overfished and that overfishing occurred in 2006, the year for which the most recent, complete fishery-dependent data are available. The F estimated for 2006 is 0.35, a reduction from the estimated F of 0.47 for 2005, but still above the F_{MAX} threshold of 0.28. F_{MAX} is the level of fishing mortality that produces maximum yield per recruit. The updated 2007 assessment confirms that summer flounder have been subject to overfishing each year of the rebuilding period that began in 2000. Spawning stock biomass (SSB) in 2006 was estimated to be 93.0 million lb (42,184 mt), below the S&T updated biomass threshold of ½ SSB_{MSY}= 98.6 million lb (44,724 mt). F_{MSY} is the fishing mortality rate that, if applied constantly, would result in maximum sustainable yield (MSY). When $F > F_{MAX}$, overfishing is considered to be occurring, and when $B<½ B_{MSY}$, the stock is considered overfished. The arithmetic mean recruitment from 1982 to 2006 is 37 million fish at age 0, with a median of 33 million fish. The 2006 year class is currently estimated to be about 30 million fish.

The Virtual Population Analysis (VPA) model used in the summer flounder assessment tends to underestimate F and overestimate stock biomass in the most recent years of the analysis until those data stabilize as new data are added in subsequent years. The model has also produced variable patterns for recruitment. Typically, the magnitude of the retrospective patterns get smaller after 5 to 7 years and completely stabilizes (converges) after 10 years of data have been added to the model (i.e., the estimates of F, SSB, and

recruitment for the year 1995 have gradually stabilized over time and are now expected not to change when new data are added in successive years' updates).

Over the last 3 years, the annual retrospective increase in fishing mortality has ranged from +20 to +40 percent. Over the last 3 years, the annual retrospective decrease in SSB has ranged from -8 to -22 percent. Retrospective analysis shows no definitive trend in estimation of the abundance of age 0 fish in the most recent years. Over the last 3 years, the annual retrospective change in recruitment has been variable and ranged from -7 to +13 percent. These patterns are likely the result of an underestimation of the true catch, due to discards and/or unreported landings. The impact for management, given these persistent retrospective patterns, is that the summer flounder stock is increasing at a lower rate and is currently at a smaller size than previously forecast.

The regulations state that the Council shall recommend, and NMFS shall implement, measures (including the TAL) necessary to achieve, with at least a 50–percent probability of success, a fishing mortality rate that produces the maximum yield per recruit (FMAX). This requirement is also consistent with a 2000 Federal Court Order (*Natural Resources Defense Council* v. *Daley*, Civil No. 1:99 CV 00221 (JLG)) regarding the setting of the summer flounder TAL. Summer flounder are under a rebuilding program whose timeline for completion has been extended from January 1, 2010, to no later than January 1, 2013, by section 120(a) of the 2006 reauthorized Magnuson-Stevens Act.

It has been evident in recent years that setting specifications designed to satisfy the minimum requirement of the regulations (i.e., a 50–percent probability of achieving F_{MAX}) is insufficient to prevent overfishing and to ensure that rebuilding will occur within the required timeframe. For the 2007 fishery, NMFS implemented a TAL that differed from the Council recommendation. The 2007 NMFS implemented TAL had a more precautionary 75–percent probability of achieving an F rate calculated to ensure that stock rebuilding will occur within the remaining years of the rebuilding time frame. This F rate, $F_{REBUILD}$, was set at 0.203, which is lower than F_{MAX} (0.28). It will not be possible to estimate if the 2007 $F_{REBUILD}$ target was successful in constraining fishing mortality at or below the 0.203 level and in ending overfishing (i.e., F <0.28) until mid-year in 2008, after the final 2007 recreational and commercial fisheries data have been compiled, audited, and are available for analysis.

The SDWG 2007 assessment update analysis indicated a 2008 TAL of 17.5 million lb (7,938 mt) at an $F_{REBUILD}$=0.199 is forecast to rebuild the stock to the S&T recommended SSB_{MSY}=197.2 million lb (89,450 mt) by Nov 1, 2012, and to a Total Stock Biomass (TSB) =207.3 million lb (94,031 mt) by Jan 1, 2013. Maintaining the $F_{REBUILD}$=0.199 rate for the remaining rebuilding period years of 2009–2012 is forecast by the SDWG's 2007 update to achieve the required stock rebuilding for summer flounder by the January 1, 2013, deadline, with at least a 50–percent probability of success. As such, this is the 2008 TAL analytical baseline that satisfies the minimum requirements of the Magnuson-Stevens Act rebuilding requirements and is consistent with the FMP regulations and Court rulings regarding probabilities for success. A TAL at this level is more conservative than the regulatory requirement that TAL recommendations have at least 50 percent probability of achieving F_{MAX} (i.e., F_{MAX}=0.28, the SDWG baseline TAL is set below this at the $F_{REBUILD}$=0.199 level).

The Summer Flounder Monitoring Committee evaluated a range of options, derived from the SDWG's baseline, for the 2008 TAL and their associated probabilities for constraining fishing mortality within the $F_{REBUILD}$ target. In addition, the Monitoring Committee evaluated TALs and F target probabilities provided by Council staff wherein the 2008 $F_{REBUILD}$ value of 0.199 would be corrected in an attempt to compensate for the retrospective pattern which has resulted from the VPA analysis. Council staff applied a 1-year correction to the $F_{REBUILD}$ target by reducing the 2008 $F_{REBUILD}$ by 28–percent from 0.199 to 0.143. Council staff derived the correction to $F_{REBUILD}$ by using the most recent 3-year average underestimation of F in the model (i.e., 28 percent). The TAL and probability options recommended by Council staff ranged from a low of 11.64 million lb (5,280 mt) with a 75–percent probability of achieving the corrected 2008 $F_{REBUILD}$=0.143, to a high of 15.77 million lb (7,153 mt) that has a 75–percent probability of achieving the uncorrected 2008 $F_{REBUILD}$=0.199.

The Monitoring Committee recommended a TAL within the range of 12.90 to 11.64 million lb (5,851 mt to 5,280 mt) to the Council. This range was based on the corrected $F_{REBUILD}$ value (0.143) and would achieve a 50- to 75–percent probability of achieving the corrected F, respectively. Both Council staff and the Monitoring Committee assumed in their analysis of the adjusted $F_{REBUILD}$ value for 2008 that the resulting TAL would be sufficient to correct, within 1 year, the course of the summer flounder rebuilding program provided the 2008 F target is not exceeded. The Monitoring Committee projections utilized for rebuilding years 2009–2012 assumes that the retrospective pattern ceases to occur. The TAL range proposed by the Monitoring Committee is more conservative than the regulatory requirements of the FMP and the statutory requirements of the Magnuson-Stevens Act.

The Council and the Board discussed the Monitoring Committee recommendation at the August Council meeting. The Council discussed at length the feasibility of achieving the rebuilding biomass target within the rebuilding period given recent recruitment levels and environmental factors, the retrospective patterns that arise from the VPA modeling approach, and the requirements of National Standard 1 that mandates management measures shall prevent overfishing while achieving optimum yield on a continuing basis and National Standard 8 that guides Councils to minimize, to the extent practicable, adverse impacts of conservation and management measures on fishing communities. The Council and the Board considered the various alternatives presented to them, and considered the need to rebuild the stock within the required timeframe, the needs of fishery participants, and the need to act with precaution in the face of uncertainty regarding the retrospective patterns. The Council adopted a 15.77–million-lb (7,153 mt) TAL that has a 75–percent probability of constraining mortality to the $F_{REBUILD}$ target of 0.199 in 2008. As such, the Council's recommended TAL exceeds the regulatory requirement for success by employing a probability greater than 50 percent. In addition, the F target is the lower $F_{REBUILD}$ (0.199) value as opposed to the minimally required F_{MAX} value (0.28). The Council and Board agreed to set aside 233,192 lb (106 mt) of the proposed TAL for research. After deducting the RSA, the TAL would be divided into a commercial quota (60 percent) and a recreational harvest limit (40 percent). All other management measures were recommended to remain status quo.

The Commission is expected to maintain the voluntary measures currently in place to reduce regulatory discards that occur as a result of landing limits established by the states. The Commission established a system whereby 15 percent of each state's quota

would be voluntarily set aside each year to enable vessels to land an incidental catch allowance after the directed fishery has been closed. The intent of the incidental catch set-aside is to reduce discards by allowing fishermen to land summer flounder caught incidentally in other fisheries during the year, while also ensuring that the state's overall quota is not exceeded. These Commission set-asides are not included in these proposed specifications because these measures are not authorized by the FMP and NMFS does not have authority to implement them.

Table 1 presents the proposed allocations by state, with and without the commercial portion of the RSA deduction. These state quota allocations are preliminary and are subject to reductions if there are overages of states quotas carried over from a previous fishing year (using the landings information and procedures described earlier). Any commercial quota adjustments to account for overages will be included in the final rule implementing these specifications.

TABLE 1. 2007 PROPOSED INITIAL SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	Percent Share	Commercial Quota		Commercial Quota less RSA[1]	
		lb	kg[2]	lb	kg[2]
ME	0.04756	4,500	2,041	4,434	2,011
NH	0.00046	44	20	43	19
MA	6.82046	645,352	292,732	635,809	288,403
RI	15.68298	1,483,924	673,108	1,461,981	663,143
CT	2.25708	213,565	96,873	210,407	95,441
NY	7.64699	723,558	328,206	712,859	323,348
NJ	16.72499	1,582,519	717,830	1,559,118	707,204
DE	0.01779	1,683	764	1,658	752
MD	2.03910	192,940	87,517	190,087	86,223
VA	21.31676	2,016,992	914,892	1,987,166	901,363
NC	27.44584	2,596,925	1,177,945	2,558,524	1,160,527
Total[3]	100.00001	9,462,001	4,291,964	9,322,086	4,228,435

[1] Preliminary Research Set-Aside amount is 233,192 lb (106 mt).
[2] Kilograms are as converted from pounds and do not sum to the converted total due to rounding.
[3] Rounding of quotas results in totals exceeding 100 percent.

Scup

Scup was last formally assessed in June 2002 at the 35th Northeast Regional SAW. At that time, SARC 35 indicated that the species was no longer overfished, but that stock status with respect to overfishing could not be evaluated. The stock is considered overfished when the 3-year average of scup SSB is less than the biomass threshold (2.77 kg/tow; the maximum NEFSC spring survey 3-year average of SSB).

On August 18, 2005, NMFS notified the Council that the scup stock had been designated as overfished and that, within 1 year of that notice, an amendment or proposed regulations for the scup fishery to end overfishing and to rebuild the stock must be prepared in accordance with the Magnuson-Stevens Act. In response, the Council developed and submitted for Secretarial review, Amendment 14 to the FMP (Amendment 14) to rebuild, during a 7-year period, the scup stock from an overfished condition to a biomass level (B) associated with MSY or (BMSY), as required by the Magnuson-Stevens Act. The Secretary approved Amendment 14 on July 3, 2007. The final rule implementing the amendment published in the **Federal Register** on July 23, 2007 (72 FR 40077). The rebuilding program begins on January 1, 2008 (i.e., year one of the 7-year plan). The Amendment 14 rebuilding plan applies a constant F of 0.10 in each year of the 7-year rebuilding period.

The 2006 NEFSC Spring SSB 3-year average (2005–2007) index value of 0.76 kg/tow remains below the minimum biomass threshold of 2.77 kg/tow. The scup stock is considered overfished. The NEFSC spring survey index increased significantly in 2004 to 1.85 kg/tow relative to the low value of 0.15 kg/tow derived in 2003. In 2005, the spring index dropped to 0.10 kg/tow; however, in 2006 this value increased to 2.04 kg/tow. The 2006 index was the highest value in the spring survey since 1978, excluding the high value in 2002. In 2007, this value dropped to 0.14 kg/tow.

The FMP specifies that the TAC associated with a given exploitation rate be allocated 78 percent to the commercial sector and 22 percent to the recreational sector. Scup discard estimates are deducted from both sectors' TACs to establish TALs for each sector, i.e., TAC minus discards equals TAL. The commercial TAC, discards, and TAL (commercial quota) are then allocated on a percentage basis to three quota periods, as specified in the FMP: Winter I (January-April)--45.11 percent; Summer (May-October)--38.95 percent; and Winter II (November-December)--15.94 percent.

The Monitoring Committee recommended a 2008 TAL of 7.34 million lb (3,329 mt) to achieve the target exploitation rate of 9 percent (F=0.10). The discard estimates used by the Monitoring Committee in the 2008 TAC calculations were based on the average discards of 2005 and 2006 for the commercial and recreational fisheries. This discard estimate is 2.56 million lb (1,161 mt), resulting in a TAC

of 9.90 million lb (4,491 mt). The Council and the Board accepted the Monitoring Committee's recommendations for 2008. NMFS is proposing to implement the Council and Board recommendation as it complies with the provisions of the Amendment 14 rebuilding program. This TAL is a 38.8–percent decrease from the 2007 TAL of 12.0 million lb (5,443 mt).

The commercial TAC would be 7.72 million lb (3,502 mt) and the recreational TAC would be 2.18 million lb (989 mt). After deducting estimated discards (2.26 million lb (1,025 mt) for the commercial sector and 0.30 million lb (136 mt) for the recreational sector), the initial commercial quota would be 5.46 million lb (2,477 mt) and the recreational harvest limit would be 1.88 million lb (853 mt). The Council and Board agreed to set aside 214,000 lb (97 mt) of the TAL for research activities. Deducting this RSA would result in a commercial quota of 5.30 million lb (2,404 mt) and a recreational harvest limit of 1.82 million lb (826 mt).

The proposed 2008 specifications would maintain the status quo base scup possession limits, i.e., 30,000 lb (13,608 kg) for Winter I, to be reduced to 1,000 lb (454 kg) when 80 percent of the quota is projected to be reached, and 2,000 lb (907 kg) for Winter II).

Table 2 presents the 2008 commercial allocation recommended by the Council, with and without the preliminary 214,000–lb (97–mt) RSA deduction. These 2008 allocations are preliminary and may be subject to downward adjustment due to 2006 overages in the final rule implementing these specifications, based on the procedures for calculating overages described earlier.

TABLE 2. 2008 PROPOSED INITIAL TAC, COMMERCIAL SCUP QUOTA, AND POSSESSION LIMITS

Period	Percent	TAC in lb (mt)	Discards in lb (mt)	Commercial Quota in lb (mt)	Commercial Quota less RSA in lb (mt)	Possession Limits in lb (kg)
Winter I	45.11	3,483,394(1,580)	1,019,486(462)	2,463,908(1,118)	2,367,373(1,074)	30,000[1](13,608)
Summer	38.95	3,007,719(1,364)	880,270(399)	2,127,449(965)	2,044,096(927)	n/a
Winter II	15.94	1,230,887(558)	360,244(163)	870,643(395)	836,531(379)	2,000(907)
Total[2]	100.00	7,722,000(3,503)	2,260,000(1,025)	5,462,000(2,478)	5,248,000(2,380)	

[1]The Winter I landing limit would drop to 1,000 lb (454 kg) upon attainment of 80 percent of the seasonal allocation.
[2]Totals subject to rounding error.
n/a-Not applicable

The final rule to implement Framework 3 to the FMP (68 FR 62250, November 3, 2003) implemented a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. As shown in Table 3, the proposed specifications would maintain the status quo Winter II possession limit-to-rollover amount ratios (i.e., 1,500 lb (680 kg) per 500,000 lb (227 mt) of unused Winter I period quota).

TABLE 3. POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF SCUP ROLLED OVER FROM WINTER I TO WINTER II PERIOD

Initial Winter II Possession Limit		Rollover from Winter I to Winter II		Increase in Initial Winter II Possession Limit		Final Winter II Possession Limit after Rollover from Winter I to Winter II	
lb	kg	lb	kg	lb	kg	lb	kg
2,000	907	0-499,999	0-227	0	0	2,000	907
2,000	907	500,000-999,999	227-454	1,500	680	3,500	1,588
2,000	907	1,000,000-1,499,999	454-680	3,000	1,361	5,000	2,268
2,000	907	1,500,000-1,999,999	680-907	4,500	2,041	6,500	2,948
2,000	907	2,000,000-2,500,000	907-1,134	6,000	2,722	8,000	3,629

Black Sea Bass

Amendment 12 to the FMP indicated that the black sea bass stock, which was determined by SARC 27 to be overfished in 1998, could be rebuilt to the target biomass within a 10-year period, i.e., by 2010. The current target exploitation rate is based on the current estimate of F_{MAX}, or 0.33 (25.6 percent). The northern stock of black sea bass was last assessed at the 43rd SAW in June 2006. The SARC 43 Panel did not consider the stock assessment to provide an adequate basis to evaluate stock status against the biological reference points, but did not recommend any other reference points to replace them.

The most recent Center spring survey results indicate that the exploitable biomass of black sea bass decreased in 2006. The 2006 biomass index, i.e., the 3-year average exploitable biomass for 2005 through 2007, is estimated to be 0.6 kg/tow, below the threshold biomass value of 0.976 kg/tow. Based on these results, if the biological reference points in the FMP are applied, black sea bass once again would be considered to be overfished.

Because the estimate of exploitable biomass is based on a 3-year average, the actual estimate for 2007 will not be derived until the spring 2008 survey results are available; if it is 0.263 (3-year moving average for 2006), and assuming an exploitation rate of 21 percent in 2003, the TAL associated with the target exploitation rate would be 3.75 million

lb (1,701 mt). However, if the 2008 estimate is 0.328 (3-year moving average for 2005), the TAL associated with the target exploitation rate would be 4.68 million lb (2,123 mt). Given the uncertainty in the black sea bass survey estimates and the potential underestimation of the 2003 exploitation rate (21 percent), the Monitoring Committee agreed with the Council staff recommendation to set a 1-year TAL of 4.22 million lb (1,914 mt). The Council and Board accepted the Monitoring Committee recommendation. This TAL would represent a 15.6–percent decrease from 2007.

NMFS proposes to implement a 2008 black sea bass TAL of 4.22 million lb (1,194 mt), consistent with the Council and Board recommendations. The FMP specifies that the TAL associated with a given exploitation rate be allocated 49 percent to the commercial sector and 51 percent to the recreational sector; therefore, the initial TAL would be allocated 2.07 million lb (939 mt) to the commercial sector and 2.15 million lb (975 mt) to the recreational sector. The Council and Board also agreed to set aside 85,790 lb (39 mt) of the black sea bass TAL for research activities. After deducting the RSA the TAL would be divided into a commercial quota of 2,025,763 lb (919 mt) and a recreational harvest limit of 2,108,447 lb (956 mt), as specified in the FMP.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact these proposed specifications, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

The economic analysis assessed the impacts of the various management alternatives. The no action alternative is defined as follows: (1) No proposed specifications for the 2008 summer flounder, scup, and black sea bass fisheries would be published; (2) the indefinite management measures (minimum mesh sizes, minimum sizes, possession limits, permit and reporting requirements, etc.) would remain unchanged; (3) there would be no quota set-aside allocated to research in 2008; (4) the existing gear restrictive areas would remain in place for 2008; and (5) there would be no specific cap on the allowable annual landings in these fisheries (i.e., there would be no quotas). Implementation of the no action alternative would be inconsistent with the goals and objectives of the FMP, its implementing regulations, and the Magnuson-Stevens Act. In addition, the no action alternative would substantially complicate the approved management program for these fisheries, and would very likely result in overfishing of the resources. Under the no action alternative, the fisheries would operate without an identified cap on allowable landings because the quotas implemented for 2007 expire on December 31, 2007, and there are no provisions to roll-over those quota provisions into 2008 if specifications are not published for the year. Therefore, the no action alternative is not considered to be a reasonable alternative to the preferred action.

The Council prepared economic analyses for Alternatives 1 through 3. Alternative 1 consists of the harvest limits proposed by the Council and the Board for all three species. Alternative 1 contains the Monitoring Committee's recommended harvest limits for scup and black sea bass. Alternative 2 consists of the most restrictive quotas (i.e., lowest landings) considered by the Council and the Board for all of the species. Alternative 2 contains the harvest limit recommended by the Monitoring Committee for summer flounder. Alternative 3 consists of the status quo quotas, which were the least restrictive quotas (i.e., highest landings) considered by the Council and Board for all three species.

Table 4 presents the 2008 initial TALs, RSA, commercial quotas adjusted for RSA, and preliminary recreational harvests for the fisheries under these three quota alternatives.

TABLE 4. COMPARISON, IN LB (MT), OF THE 2008 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS QUOTA ALTERNATIVES

	Initial TAL	RSA [2]	Preliminary Adjusted Commercial Quota[1]	Preliminary Recreational Harvest Limit
Quota Alternative 1 (Council's Preferred)				
Summer Flounder	15.77 million(7,150)	233,192(106)	9.32 million(4,230)	6.21 million(2,820)
Scup	7.34 million(3,330)	214,000(97)	5.30 million(2,400)	1.82 million(830)
Black Sea Bass	4.22 million(1,910)	85,790(39)	2.03 million(920)	2.11 million(960)
Quota Alternative 2 (Most Restrictive)				
Summer Flounder	11.64 million(5,280)	233,192(106)	6.84 million(3,100)	4.56 million(2,070)
Scup	5.02 million(2,280)	151,000(68)	3.54 million(1,610)	1.33 million(600)
Black Sea Bass	3.75 million(1,700)	85,790(39)	1.80 million(820)	1.87 million(850)
Quota Alternative 3 (Status Quo-Least Restrictive)				
Summer Flounder	17.112 million(7,760)	233,192(106)	10.13 million(4,590)	6.75 million(3,060)
Scup	12.00 million(5,440)	214,000(97)	8.94 million(4,060)	2.85 million(1,290)

TABLE 4. COMPARISON, IN LB (MT), OF THE 2008 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS QUOTA ALTERNATIVES—Continued

	Initial TAL	RSA [2]	Preliminary Adjusted Commercial Quota[1]	Preliminary Recreational Harvest Limit
Black Sea Bass	5.00 million(2,270)	85,790(39)	2.41 million(1,090)	2.51 million(1,140)

[1] Note that preliminary quotas are provisional and may change to account for overages of the 2007 quotas.
[2] Conditionally approved RSA amount or 3 percent of the alternative's TAL, whichever is less.
Note: Metric tons are as converted from pounds as shown and are subject to rounding error.

Table 5 presents the percent change associated with each of these commercial quota alternatives (adjusted for RSA) compared to the final adjusted quotas for 2007.

TABLE 5. PERCENT CHANGE ASSOCIATED WITH 2008 ADJUSTED COMMERCIAL QUOTA ALTERNATIVES COMPARED TO 2007 COMMERCIAL ADJUSTED QUOTAS

	Total Aggregate Changes Including RSA		
Species	Quota Alternative 1 (Council Preferred)	Alternative 2 (Most Restrictive)	Quota Alternative 3 (Least Restrictive/Status Quo)
Summer Flounder	-7.8%	-32.0%	+ 1.3%
Scup	-38.8%	-58.2%	+ 1.3%
Black Sea Bass	-15.6%	-25.0%	+ less than 1.0%

The total gross revenue for the individual vessels that would be directly regulated by this action is less than $ 4.0 million each. All vessels that would be impacted by this proposed rulemaking are therefore considered to be small entities and, thus, there would be no disproportionate impacts between large and small entities as a result. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for summer flounder, scup, or black sea bass, as well as owners of vessels that fish for any of these species in state waters. The Council estimates that the proposed 2007 quotas could affect 2,253 vessels that held a Federal summer flounder, scup, and/or black sea bass permit in 2006. However, the more immediate impact of this rule will likely be felt by the 903 vessels that actively participated in these fisheries (i.e., landed these species) in 2006.

Commercial Fishery Impacts

The Council estimated the total revenues derived from all species landed by each vessel during calendar year 2007 to determine a vessel's dependence and revenue derived from a particular species. This estimate provided the base from which to compare the effects of the proposed quota changes from 2007 to 2008.

Alternative 1 (Council's Preferred Measures): The analysis of the harvest limits in Alternative 1 indicated that these harvest levels would result in 2008 revenue losses, relative to 2007, of less than 5 percent for 115 vessels and greater than or equal to 5 percent for 733 vessels. More specifically, vessels are projected to incur revenue reductions as follows: Change of 5–9 percent, 374 vessels; 10–19 percent, 249 vessels; 20–29 percent, 29 vessels; 30–39 percent, 29; 40–49 percent, 19 vessels, and greater than or equal to 50 percent, 2 vessels. Most commercial vessels showing revenue reduction of greater than 5 percent are concentrated in NJ, RI, NC, NY and MA.

The Council also examined the level of ex-vessel revenues for the impacted vessels to assess further impacts the impacts of Alternative 1 (Table 6).

TABLE 6. COMPARISON OF ALTERNATIVE 1 IMPACTS TO VESSEL TOTAL GROSS SALES BY REVENUE REDUCTION CATEGORY

	2007 Total Gross Sales (Ex-Vessel Revenues)				
Revenue Reduction Range	No. of Vessels in Range	$1,000 or Less		$10,000 or Less	
(Percent)		No. of Vessels	Percent in Range	No. of Vessels	Percent in Range
5 to 9	374	149	40	63	17
10 to 19	249	82	33	138	55
20 to 29	60	8	13	17	28
30 to 39	29	8	28	16	55
40 to 49	19	10	53	17	89

TABLE 6. COMPARISON OF ALTERNATIVE 1 IMPACTS TO VESSEL TOTAL GROSS SALES BY REVENUE REDUCTION CATEGORY—Continued

Revenue Reduction Range (Percent)	2007 Total Gross Sales (Ex-Vessel Revenues)				
	No. of Vessels in Range	$1,000 or Less		$10,000 or Less	
		No. of Vessels	Percent in Range	No. of Vessels	Percent in Range
Greater than or equal to 50	2	2	100	0	0
Total	733	259	35	424	58

Based on the information in Table 6, the dependence on fishing for some of these vessels is likely small as 35 percent of vessels incurring revenue reductions of gross sales equal to or less than $1,000 and 58 percent of impacted vessels had gross sales of less than or equal to $10,000 for 2006.

The Council also analyzed changes in total gross revenues that would occur as a result of the quota alternatives. Alternative 1 would decrease total revenues for summer flounder by approximately $0.84 million, scup by $3.20 million, and black sea bass $0.88 million, relative to expected revenues earned from the 2007 quotas.

The overall reduction in ex-vessel gross revenue associated with the potential changes in quotas in 2008 relative to the quotas implemented in 2007 is approximately $4.92 million (using 2006 ex-vessel prices) under Alternative 1. Assuming that the decrease in total ex-vessel gross revenue associated with the proposed rule for each fishery is distributed equally among the vessels that landed those species in 2006 (the last full year of data availability), the average decrease in gross revenue per vessel associated with the preferred quota would be $1,143 for summer flounder and $3,197, $7,637 for scup, and $1,642 for black sea bass. The number of vessels landing summer flounder, scup, and black sea bass in 2006 was 735, 419, and 536, respectively.

The predicted changes in ex-vessel gross revenues associated with the potential changes in quotas in 2008 versus 2007 assumed static 2006 prices (summer flounder--$1.79/lb; scup--$0.89/lb; and black sea bass--$2.50/lb). However, if prices for these species change as a consequence of changes in landings, then the associated revenue changes could be different than those estimated above, and could mitigate some of the revenue reductions associated with lower quantities of quota available under this alternative.

Alternative 2 (Most Restrictive Measures): The analysis of the harvest limits of Alternative 2 indicated that all vessels would incur revenue losses equal to or greater than 5 percent. More specifically, vessels are projected to incur revenue reductions as follows: 10–19 percent, 45 vessels; 20–29 percent, 292 vessels; 30–39 percent, 456 vessels; 40–49 percent, 61 vessels; and greater or equal to 50 percent, 41 vessels. Further examination shows that 314 of the impacted vessels (35 percent) had gross sales of $1,000 or less and 547 of the impacted vessels (61 percent) had gross sales of $10,000 or less, thus likely indicating that the dependence on these fisheries for some of these vessels is very small. Table 7 contains additional information on the specific impacts on gross sales under this alternative.

TABLE 7. COMPARISON OF ALTERNATIVE 2 IMPACTS TO VESSEL TOTAL GROSS SALES BY REVENUE REDUCTION CATEGORY

Revenue Reduction Range (Percent)	2007 Total Gross Sales (Ex-Vessel Revenues)				
	No. of Vessels in Range	$1,000 or Less		$10,000 or Less	
		No. of Vessels	Percent in Range	No. of Vessels	Percent in Range
10 to 19	45	17	38	33	73
20 to 29	292	115	39	208	71
30 to 39	456	157	34	258	57
40 to 49	69	10	14	20	29
Greater than or equal to 50	41	15	37	28	68
Total	903	314	35	547	61

As in Alternative 1, most commercial vessels showing revenue reduction are concentrated in MA, RI, NY, NJ, and NC.

Alternative 2 was estimated to decrease total summer flounder, scup, and black sea bass revenues by approximately $5.28 million, $4.77 million and $1.45 million respectively, relative to expected revenues earned from the 2007 quotas. The overall reduction in ex-vessel gross revenue associated with the potential changes in quotas in 2008 versus 2007 is approximately $11.50 million (in 2006 dollars) under Alternative 2. Assuming that the decrease in total ex-vessel gross revenue associated with the proposed

rule for each fishery is distributed equally among the vessels that landed those species in 2006 (the last full year of data availability), the average decrease in gross revenue per vessel associated with the Alternative 2 quota would be $7,184 for summer flounder, $11,384 for scup and $2,706 for black sea bass. The total average gross revenue reduction for vessels that land summer flounder, scup and black sea bass would then be $12,735.

Alternative 3 (Status Quo/Least Restrictive Measures): Alternative 3 was estimated to increase total summer flounder, scup, and black sea bass revenues by approximately $0.61, $0.04, and $0.08 million respectively, relative to expected revenues earned from the 2007 quotas (assuming the entire quotas are landed and ex-vessel prices previously outlined remain effective).

The overall increase in ex-vessel gross revenue associated with the potential changes in quotas in 2008 versus 2007 is approximately $0.73 million (in 2006 dollars) under Alternative 3. Assuming that the increase in total ex-vessel gross revenue associated with the proposed rule for each fishery is distributed equally among the vessels that landed those species in 2006 (the last full year of data availability), the average increase in gross revenue per vessel associated with the Alternative 3 quota would be $829 for summer flounder, $95 for scup and $149 for black sea bass. The total average gross revenue reduction for vessels that land all three species would then be $808.

Recreational Fishery Impacts

For the analysis of the alternative recreational harvest limits, the 2008 recreational harvest limits were compared with the 2007 recreational harvest limits and landings through 2006, the most recent year with complete recreational data. The 2008 specifications setting analysis conducted by Council staff is principally for commercial fisheries. As such, only general information related to the changes in recreational harvest limits are analyzed as part of the quota specification rulemaking. The effects of specific recreational management measures, including minimum fish sizes, possession limits, and fishing seasons for all three species will be analyzed by the Council when the Council and Board submit recommendations for the 2008 recreational fisheries following the December 2007 Council meeting. At that time, more complete 2007 recreational fishery information will be available.

Summer Flounder: The Alternative 1 recreational harvest limit (adjusted for RSA) of 6.21 million lb (2,817 mt), would be a 7–percent decrease from the 2007 recreational harvest limit of 6.84 million lb (3,104 mt) and a 46–percent reduction from the 2006 landings of 11.51 million lb (5,221 mt). The Alternative 2 recreational harvest limit of 4.56 million lb (2,068 mt) would be 32 percent lower than the 2007 recreational harvest limit, and would represent a 60–percent decrease from 2006 recreational landings. The Alternative 3 (status quo) recreational harvest limit of 6.75 million lb (3,062 mt) would be a less than a 1–percent decrease from the 2007 recreational harvest limit (due to differences in the preliminary summer flounder RSA for the two years) and would represent a 41–percent decrease from 2006 recreational landings.

If recreational landings are the same in 2008 as in 2007, the Alternative 1 (Council Preferred) recreational harvest limits will not constrain recreational landings in 2008. As such, it is likely that more restrictive limits (i.e., lower possession limits, greater minimum size limits, and/or shorter seasons) would be required to prevent anglers from exceeding the recreational harvest limit in 2008. It is expected that this alternative would likely decrease recreational satisfaction for the summer flounder recreational fishery, relative to the status quo alternative. At the present time, there is neither behavioral nor demand data available to estimate how sensitive party/charter boat anglers might be to proposed fishing regulations. In the summer flounder fishery, there is no mechanism to deduct overages directly from the recreational harvest limit. Any overages must be addressed by way of adjustments to the management measures. While it is likely that proposed management measures may restrict the recreational fishery for 2008, and these measures may cause some decrease in recreational satisfaction (i.e., low bag limit, larger fish size or closed season), there is no indication that any of these measures may lead to a decline in the demand for party/charter boat trips. Currently, the market demand for this sector is relatively stable. Summer flounder recreational trips averaged 5.1 million for the 1991 to 2006 period, ranging from 3.8 million in 1992 to 6.1 million in 2001. For the years 2004 through 2006, summer flounder recreational fishing trips were estimated at 5.1, 5.7, and 5.4 per year, respectively.

Scup: Under Alternative 1, the scup recreational harvest limit would be 1.82 million lb (825 mt)), 34 percent below the 2007 recreational harvest limit of 2.47 million lb (1,120 mt), and 38 percent below the 2006 recreational landings of 2.95 million lb (1,338 mt). The Alternative 2 scup recreational harvest limit of 1.33 million lb (603 mt) would be 52 percent less than the 2007 recreational harvest limit, and 55 percent below 2006 recreational landings. The Alternative 3 scup recreational harvest limit of 2.85 million lb (1,293 mt) would be a 4–percent increase from the 2007 recreational harvest limit and would represent a 3–percent decrease from 2006 recreational landings.

It is likely that more restrictive limits (i.e., lower possession limits, greater minimum size limits, and/or shorter seasons) with varying degrees of restrictions would be required under any scup alternative to prevent anglers from exceeding the recreational harvest limit in 2008. It is likely to decrease recreational satisfaction for the scup recreational fishery, relative to the status quo alternative. However, it is not expected that this will result in any substantive decreases in the demand for party/charter boat trips.

Scup recreational trips have shown a slight upward trend from the early 1990s to the early 2000s, ranging from approximately 199,000 trips in 1997 to 972,000 trips in 2003, with an average of approximately 454,000 trips per year for the 1991 through 2005 period. For 2004 and 2005, scup recreational fishing trips were estimated at approximately 568,000 and 458,000, respectively.

Black Sea Bass: Under Alternative 1, the black sea bass recreational harvest limit would be 2.11 million lb (957 mt)), 15 percent below the 2007 recreational harvest limit of 2.47 million lb (1,120 mt), and less than 1 percent above the 2006 recreational landings of 2.10 million lb (953 mt). The Alternative 2 recreational harvest limit of 1.87 million lb (848 mt) would be 24 percent less than the 2007 recreational harvest limit, and 11 percent below the 2006 recreational landings. The Alternative 3 black sea bass recreational harvest limit of 2.51 million lb (1,139 mt) would be a 2–percent decrease from the 2007 recreational harvest limit and would represent a 20–percent increase over 2006 recreational landings.

Under Alternative 1, the black sea bass 2008 recreational harvest limit (adjusted for RSA) is 2.11 million lb (957 mt). However, if recreational landings are the same in 2007 as in 2006 (2.10 million lb; 953 mt), the adjusted recreational harvest limit is expected to constrain recreational landings in 2008. As such, more restrictive limits (i.e., lower possession limits, greater minimum size limits, and/or shorter

seasons) may not be necessary to prevent anglers from exceeding this recreational harvest limit in 2008.

Black sea bass recreational fishing trips have averaged approximately 247,000 per year for the 1991 through 2005 period, ranging from approximately 136,000 trips in 1999, to 311,000 trips in 1997. In 2005, recreational trips for black sea bass numbered approximately 166,000, the third lowest value in the 1991 through 2005 time series.

In summary, it is unlikely that the any of the measures proposed would result in any substantive decreases in the demand for party/charter boat trips. It is likely that party/charter anglers would target other species when faced with potential reductions in the amount of summer flounder, scup, and black sea bass that they are allowed to catch. The Council intends to recommend specific measures to attain the 2008 summer flounder, scup, and black sea bass recreational harvest limit in December 2007, and will provide additional analysis of the measures upon submission of its recommendations in early 2008.

Research Set-Aside Impacts

The Council analysis for 2008 RSA contains two alternatives: Alternative 1 (non-preferred) wherein no RSA would occur and Alternative 2 (Council preferred/status quo) wherein the Council specifies RSA for 2008. The Council has recommended a maximum of 3 percent of the TALs for summer flounder, scup, and black sea bass may be set aside for research. Details on the three projects conditionally approved by NMFS are contained in the preamble to this rule. For analysis of the impacts of the two RSA alternatives, the RSA amounts are either the specific amounts requested by the conditionally approved 2008 projects or 3 percent of the TAL, whichever is less.

Under Alternative 1, no RSA would be deducted from the overall TAL and, as such, no downward adjustment to the TALs would occur. There would be no direct economic or social costs under the non-preferred Alternative 1, however collaborative efforts among the public, research institutions, and government aimed at broadening scientific knowledge of Mid-Atlantic species would cease under the RSA program. The nation would not receive the benefit of data or information that would otherwise be derived through the RSA program.

Under the Council-preferred Alternative 2, RSA would be specified for each species. The effects of doing so are summarized, as follows:

Summer Flounder: The commercial portion of the summer flounder RSA preliminary allocation in the proposed specifications, if made available to the commercial fishery, could be worth as much as $250,448 dockside, based on a 2006 ex-vessel price of $1.79/lb. Assuming an equal reduction in fishing opportunity among all active vessels, this could result in a per-vessel potential revenue loss of approximately $341. Changes in the summer flounder recreational harvest limit as a result of the RSA are not expected to be significant as the deduction of RSA from the TAL. Under Alternative 3 (most restrictive TAL), a relatively marginal decrease in the recreational harvest limit from 4.66 million lb (2,114 mt) to 4.56 million lb (2,068 mt) would occur (approximately 2 percent decrease). TAL Alternatives 1 and 3, would be decreased by slightly less than 2 percent and slightly more than 1 percent, respectively. Because this is a marginal change, it is unlikely that the recreational possession, size, or seasonal limits would change as the result of the RSA allocation.

Scup: The commercial scup RSA allocation, if made available to the commercial fishery, could be worth as much as $141,635 dockside for TAL Alternatives 1 and 3 which would permit the full amount requested (214,000 lb; 97 mt) because it is less than 3 percent of the respective alternatives TAL and $97,519 under Alternative 2 which is the most restrictive and, as such, would only permit 3 percent of the TAL (150,600 lb; 68 mt). These values are based on a 2006 ex-vessel price of $0.75/lb. Assuming an equal reduction in fishing opportunity for all active commercial vessels, this could result in a loss of potential revenue of approximately $338 per vessel under Alternatives 1 and 3 and $233 under Alternative 2. For the analyzed scup TAL alternatives, the changes in the recreational harvest limits are from 1.88 to 1.82 million lb (852 to 826 mt; a 3.2–percent decrease) under Alternative 1, from 1.37 (621 mt) to 1.33 million lb (603 mt) (a 2.9–percent decrease) under Alternative 2, and from 2.90 (1,315 mt) to 2.85 million lb (1,293 mt) (a 1.7–percent decrease) under Alternative 3. It is unlikely that scup recreational possession, size, or seasonal limits would change as the result of the RSA allocation.

Black Sea Bass: The commercial portion of the black sea bass RSA, if made available to the commercial fishery, could be worth as much as $105,093 dockside, based on a 2006 ex-vessel price of $2.50/lb. Assuming an equal reduction in fishing opportunity for all active commercial vessels, this could result in a loss of approximately $196 per vessel. For the analyzed back sea bass alternatives, the changes in the recreational harvest limits are from 2.15 (975 mt) to 2.11 million lb (957 mt) (a 1.9–percent decrease) under Alternative 1, from 1.91 (866 mt) to 1.87 million lb (848 mt) (a 2.1–percent decrease) under Alternative 2, and from 2.55 (1,157 mt) to 2.51 million lb (1,139 mt) (a 1.6–percent decrease) under Alternative 3. It is unlikely that the black sea bass possession, size, or seasonal limits would change as the result of this RSA allocation.

Overall, long-term benefits are expected as a result of the RSA program. The results of these projects will provide needed information on high-priority fisheries management issues related to Mid-Atlantic fisheries management. If the total amount of quota set-aside is not awarded for any of the three fisheries, the unused set-aside amount will be restored to the appropriate fishery's TAL. It should also be noted that fish harvested under the RSAs would be sold, and the profits would be used to offset the costs of research. As such, total gross revenue to the industry would not decrease if the RSAs are utilized.

Summary

The proposed specifications represent lower 2008 TALs for summer flounder, scup, and black sea bass. The proposed specifications were chosen because they allow for the maximum level of commercial and recreational landings, while allowing the NMFS to meet its legal requirements under the Magnuson-Stevens Act while achieving the objectives of the FMP. The summer flounder TAL was chosen to allow for rebuilding of the stock by 2013 and was selected as a means to balance the social and economic concerns for the 2008 fishery with the need to select a measure that is more precautionary than the minimum requirements (i.e., at least 50–percent probability for success) to ensure that overfishing does not occur and that the effects of the retrospective patterns are mitigated. The scup TAL was selected as it complies with the fishing mortality objective outlined in the scup rebuilding plan of Amendment 14 to the FMP. Due to the level of uncertainty in the black sea bass stock assessment and to the recent stock indices, the black sea bass TAL was selected as a risk-averse management approach to ensure continued stock rebuilding. The proposed 2008 adjusted commercial quotas for summer flounder, scup, and black sea bass are 4.8 percent, 40.4 percent, and 14.7

percent lower, respectively, relative to the adjusted quotas for year 2007. The proposed recreational harvest limits (adjusted for RSA) would be 7.2-, 33.6-, and 14.6–percent lower than the adjusted recreational harvest limits for year 2007.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Dated: November 8, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 07–5647 Filed 11–8–07; 1:58 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071029545–7545–01]

RIN 0648–AU85

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to modify the Individual Fishing Quota (IFQ) Program for the fixed-gear commercial Pacific halibut fishery and sablefish fishery by revising regulations governing use of commercial halibut quota share (QS) and processing of non-IFQ species when processed halibut is onboard a vessel. This action would amend current regulations to allow persons holding category A halibut QS to process IFQ regardless of whether a QS holder with unused category B, C, or D halibut QS is onboard the vessel. This action also would allow catcher/processor vessels to process non-IFQ species regardless of whether any processed IFQ species is onboard the vessel. This action is necessary to improve the efficiency of fishermen fishing on catcher/processor vessels. The intended effect of this action is to allow halibut QS holders greater flexibility in using their QS, allow use of crew who hold unused category B, C, or D halibut QS while onboard a category A halibut QS vessel, and increase the product quality of non-IFQ species harvested incidentally to IFQ halibut.

DATES: Comments must be received no later than December 14, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802;
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;
- Fax: 907–586–7557;
- E-mail: *OMNIV-PR–0648–AU85@noaa.gov*. Include in the subject line of the e-mail the following document identifier: IFQ Halibut Sablefish 0648–AU85. E-mail comments, with or without attachments, are limited to 5 megabytes; or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the North Pacific Fishery Management Council (Council) at 605 West 4th, Suite 306, Anchorage, Alaska 99501–2252, 907–271–2809, or the NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at *http://www.noaa.fakr.gov*.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228 or *jay.ginter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62 (72 FR 11792; March 14, 2007).

The Halibut Act also authorizes the Council to develop and submit regulations to the Secretary to allocate harvesting privileges among U.S. fishermen. Regulations developed by the Council are implemented only with the approval of the Secretary. Like the original IFQ Program regulations and subsequent amendments to them, this action was developed by the Council under authority of the Halibut Act.

The Council, under the authority of the Halibut Act (with respect to Pacific halibut) and the Magnuson-Stevens Fishery Conservation and Management Act (with respect to sablefish), adopted the IFQ Program in 1991. The Halibut and Sablefish IFQ Program established a limited access system for managing the fixed gear Pacific halibut fishery in Convention waters in and off Alaska and sablefish fisheries in waters of the Exclusive Economic Zone, located between 3 and 200 miles off Alaska. The IFQ Program was approved by NMFS in January 1993, and promulgated in Federal regulation on November 9, 1993 (58 FR 59375). Fishing under the Halibut and Sablefish IFQ Program began on March 15, 1995, ending the open access fishery which preceded its implementation. Regulations implementing the Halibut and Sablefish IFQ Program are at 50 CFR part 679. In addition, Federal regulations at 50 CFR part 300, subpart E, also govern the halibut IFQ fishery.

The Halibut and Sablefish IFQ Program was developed to reduce fishing capacity that had increased during years of management as an open access fishery, while maintaining the social and economic character of the fixed gear fishery that is relied on as a source of revenue for coastal communities in Alaska. The Council and the Secretary concluded that the Halibut and Sablefish IFQ Program would provide economic stability for the commercial hook-and-line fishery while reducing many of the conservation and management problems commonly associated with open access

fisheries. The proposed rule for the IFQ Program (57 FR 57130; December 3, 1992) describes, in detail, the background leading to the Council's adoption of the Halibut and Sablefish IFQ Program.

Under the IFQ Program, QS represents a harvesting privilege for a person. On an annual basis, QS holders are authorized to harvest a specified poundage which is issued by NMFS as IFQ. The specific amount of IFQ held by a person is determined by the number of QS units held, the total number of QS units issued in a specific regulatory area, and the total pounds of sablefish or halibut allocated for the IFQ fisheries in a particular year. Fishermen may harvest the IFQ over the entire fishing season, which in 2007 is March 10 through November 15 for halibut (72 FR 11792; March 14, 2007) and during the same period for the sablefish (72 FR 9676; March 5, 2007). Generally, an IFQ holder must be onboard at the time his or her IFQ is fished. This requirement was designed to maintain a predominantly owner-operated fishery that was a characteristic of the fishery prior to the implementation of the IFQ Program.

Federal regulations at 50 CFR 679.40(a)(5) divide QS into vessel categories (A, B, C, and D for halibut and A, B, and C for sablefish) with unique restrictions designed to prevent excessive consolidation and regulate total harvest. Category A QS holders are authorized to harvest and process either IFQ species on a vessel of any length. Category B QS holders may harvest either IFQ species from any size vessel, but may not process halibut or sablefish onboard. Category C QS holders may harvest, but may not process, either IFQ species on a vessel that is less than or equal to 60 ft (18.3 m) length overall (LOA). Finally, category D QS holders may harvest, but not process, halibut on vessels less than or equal to 35 ft (10.7 m) LOA. Vessels that harvest fish only and do not process those fish commonly are referred to as ''catcher vessels'' while vessels capable of harvesting and processing are referred to as ''catcher/processors.'' Hence, vessels in category A are catcher/processor vessels and those in categories B, C, and D are catcher vessels.

With few exceptions, halibut QS or IFQ assigned to a vessel category may not be used to harvest IFQ species on a vessel of a different category. Again, this vessel category system was intended by the Council and the Secretary to maintain a predominantly owner-operated fishery by protecting the QS and IFQ held by small vessel owners from being purchased and used on large vessels.

The IFQ Program initially included other provisions designed to protect small catcher vessels from potential economic competition with larger catcher/processors. Among these economic protection measures was a prohibition against processing non-IFQ species (e.g., Pacific cod) onboard a vessel on which a person held catcher vessel IFQ for either IFQ species. This prohibition responded to a concern that owners of large catcher/processor vessels could harvest a large portion of halibut or sablefish that would ordinarily be harvested by smaller catcher vessels. The result could be an increase in harvesting of IFQ species on catcher/processor vessels and a decrease in harvesting of IFQ species on smaller catcher vessels that historically landed their catch at shoreside processors located in small coastal communities. This could have a detrimental socioeconomic effect on these small communities that rely on revenue generated from catcher vessel deliveries to shoreside processors located in these small coastal communities.

Although concern for the economic vitality of coastal communities remained strong, the Council recommended relaxing part of this prohibition with regard to sablefish soon after the initial implementation of the IFQ Program. The Council proposed and the Secretary approved Amendment 33 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 37 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. A proposed rule for Amendments 33 and 37 was published April 2, 1996 (61 FR 14547) and a final rule was published June 27, 1996 (61 FR 33382). These amendments and their implementing regulations allowed persons with category A QS to process non-IFQ species when a person with unused sablefish IFQ derived from QS categories B, C or D is onboard the catcher/processor vessel. The amendments also allowed holders of category A QS to harvest IFQ sablefish when persons holding unused catcher vessel sablefish IFQ were onboard the vessel.

The prohibition on processing non-IFQ species resulted in the unanticipated waste of species caught incidentally to halibut and sablefish, especially rockfish and Pacific cod. With some exceptions, Federal regulations require fishermen to retain all Pacific cod and rockfish caught incidentally in IFQ halibut and sablefish fisheries. The retention requirement forces fishermen to consider the impact that their time at-sea will have on product quality if at-sea processing is not an option. This is especially problematic in the IFQ fisheries because non-IFQ species such as Pacific cod and rockfish are reported to degrade at a quicker rate than IFQ species. Thus, fishermen focus effort on valuable IFQ species and choose to not offload species of lesser value in a condition that would allow the product to be graded as high quality. In severe situations, non-IFQ species may be offloaded in such poor condition that they must be discarded or can only be processed into low value products.

Amendments 33 and 37 and their implementing regulations relieved the prohibition on processing of non-IFQ species only with regard to sablefish IFQ, but not halibut IFQ. The Council did not extend the regulations to the halibut fishery because (a) participation in the halibut fishery includes many small local vessels that do not have processing capabilities, and (b) the Council wanted to maintain a diverse fishing fleet where all segments continue to exist along with the social structures associated with those segments.

However, the same issues that led the Council to relieve the processing prohibition with regard to sablefish IFQ occurred with regard to halibut IFQ. In addition to the unanticipated waste of non-IFQ species, persons fishing halibut IFQ derived from category A QS could not process any species if a person onboard the vessel held unused halibut IFQ derived from category B, C, or D QS. Also, operators of catcher/processor vessels fishing for Pacific cod, for example, would have to employ crew members who did not have unused catcher vessel IFQ (i.e., IFQ derived from category B, C, or D halibut QS) for halibut, or catcher/process operators would have to delay fishing for non-IFQ species until all crew members onboard had fully used their catcher vessel IFQ for halibut. Hence, the processing restriction limited the crew that could be onboard catcher/processor vessels and the timing of fishing by catcher/processor vessels.

In October 2004, the Council reviewed two proposals requesting that regulations similar to the non-IFQ species processing exception provided for the sablefish IFQ fishery in Amendments 33 and 37 be applied also to the halibut IFQ fishery. One proposal recommended relieving restrictions that prohibit a catcher/processor vessel with category A QS from harvesting and processing halibut if a person with unused category B, C, or D QS is

onboard the vessel. A second proposal recommended allowing processed non-IFQ species to be onboard a vessel that is otherwise authorized to process IFQ species and non-IFQ species. Both proposals would require the same regulatory change, although each proposal was different.

This proposed action would satisfy both proposals and is intended to increase the revenue generated from harvested species by (1) allowing non-IFQ fish species to be processed on a vessel otherwise authorized to process fish, rather than allowing non-IFQ species to degrade into low value products or be wasted while IFQ species are sought; and (2) allowing processed and unprocessed IFQ species to be onboard the same vessel during the same fishing trip. For example, this proposed regulation would allow a person holding category A halibut IFQ to harvest halibut and process all incidentally caught fish species if a person onboard the vessel held unused category B, C, or D QS. Additionally, catcher/processor vessel operators could employ crew members who hold unused halibut IFQ derived from QS categories B, C, or D.

In December 2004, the Council initiated an analysis of the proposals presented at its October 2004 meeting. In February 2005, the Council combined the regulatory proposals into a single alternative for analysis. The Council released the analysis for public review in December 2005 and adopted a recommendation to the Secretary for this proposed regulatory amendment in June 2006.

This proposed action would allow the processing of non-IFQ and IFQ species on a vessel that is otherwise authorized to process non-IFQ species when any amount of halibut IFQ resulting from QS in categories B, C, or D are held by persons onboard the vessel. This action would not allow the processing of category B, C, or D halibut IFQ onboard a catcher/processor vessel. Instead, this action would allow persons possessing unused catcher vessel category B, C, or D halibut QS to be onboard a catcher/processor vessel when that vessel is harvesting and processing category A halibut or sablefish IFQ or is harvesting and processing non-IFQ species. This action is proposed to relieve a restriction on catcher/processor vessels which would increase their efficiency. The proposed regulatory change would remove regulatory text currently at §§ 679.7(f)(13) and (14) and § 679.42(k). No new regulatory text is proposed.

Classification

The proposed rule does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules. This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866. This proposed rule also complies with the Halibut Act and the Secretary's authority to implement allocation measures for the management of the halibut fishery.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact that this proposed rule, if adopted, would have on directly regulated small entities. A business is considered a small entity if annual gross revenues are less than $4.0 million. A copy of this analysis is available from NMFS (see **ADDRESSES**). A description of this action, why it is being considered, and the legal basis for this action are presented above in the preamble to this rule. A summary of the IRFA follows.

Summary of IRFA

The Council reviewed two alternatives: the ''no action'' alternative; and the ''preferred alternative.'' The preferred alternative would directly regulate approximately 3,233 persons holding category B, C, or D halibut QS, 33 catcher/processor vessels, and 1,312 vessels that hold catcher vessel endorsements for vessels less than 60 ft (18.6 m) length overall on their license limitation permits. NMFS does not possess sufficient ownership and affiliation information to determine the precise number of quota share holders considered small entities in the IFQ Program or the number of small entities that would be adversely impacted by this action. NMFS assumes that all directly regulated entities have gross revenues less than $4 million, and that they are thus small entities for the purposes of the Regulatory Flexibility Act. In 2004, 1,335 unique IFQ vessels made IFQ landings.

Compared with status quo, the preferred alternative may increase the revenue generated from non-IFQ species harvested by increasing the quality of offloaded product. The preferred alternative would allow QS holders already authorized to process fish at-sea to optimize the revenue generated from harvested non-IFQ groundfish. Processing capacity is not expected to increase because the number of vessels currently authorized to process groundfish catch onboard while harvesting IFQ derived from category A quota share would not change. The preferred alternative also may increase benefits to persons holding QS because it allows IFQ to be processed regardless of whether another quota share holder is onboard, including crew holding catcher vessel category B, C, or D QS who are working onboard vessels with category A QS.

NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of the action and that would minimize the economic impact of the proposed rule on small entities. The Council received two proposals on this issue, incorporated them both into the preferred alternative, and evaluated them jointly after a preliminary review found that they were functionally the same. The Council's action alternative would completely repeal the subject requirements. Repeal would remove a restriction from directly regulated entities and potentially lead to increased profits. Other alternatives might have been designed to limit the ability of this action to accomplish the objectives, by limiting the scope of the repeal to particular species or halibut QS classes, or by providing for a delayed effective date. However, these alternatives would not have been significantly different from the action alternative. They would not have involved substantively different approaches to addressing the problem that had been identified. Moreover, since this is an action to relax a restriction on directly regulated small entities, these alternatives would only have reduced the potential benefits of this action for these small entities or the classes of entities that might benefit from them.

According to NOAA Administrative Order (NAO) 216–6, including the criteria used to determine significance, this rule would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in the previous National Environmental Policy Act (NEPA) analysis. An environmental impact statement (EIS; dated December 1992) was prepared for the final rule implementing the original halibut and sablefish IFQ and CDQ programs (58 FR 59375; November 9, 1993). The scope of the EIS includes the potential environmental impacts of this proposed rule because the EIS analyzed the original IFQ Program, which included analyses of biological and socioeconomic impacts on the environment, affected fishermen, and affected communities. Based on the nature of the proposed rule and the

previous environmental analysis, this proposed rule is categorically excluded from the requirement to prepare either an EIS or an environmental assessment, in accordance with Section 5.05b of NAO 216–6. Copies of the EIS for the original halibut and sablefish IFQ and CDQ programs and the categorical exclusion for this action are available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: November 6, 2007.

John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* , 1801 *et seq.* , 3631 *et seq.* ; and Pub. L. 108 199, 118 Stat. 110.

§ 679.7 [Amended]

2. In § 679.7, paragraph (f)(13) is removed and reserved, paragraph (f)(15) is removed, and paragraphs (f)(16) and (f)(17) are redesignated as paragraphs (f)(15) and (f)(16), respectively.

§ 679.42 [Amended]

3. In § 679.42, paragraph (k) is removed and paragraph (l) is redesignated as paragraph (k).

[FR Doc. E7–22237 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 219

Wednesday, November 14, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 7, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Value-Added Producer Grants.

OMB Control Number: 0570–0039.

Summary of Collection: The Rural Business-Cooperative Service (RBS) an agency within the USDA Rural Development mission area will administer the Value-Added Producer Grants Program. The Program is authorized by the Agriculture Risk Protection Act of 2000 (Public Law 106–224) as amended by the Farm Security and Rural Investment Act of 2002 (Farm Bill) (Pub. L. 107–171). The objective of this program is to encourage producers of agricultural commodities and products of agricultural commodities to further refine these products increasing their value to end users of the product. These grants will be used for two purposes: (1) To fund feasibility studies, marketing and business plans, and similar development activities; (2) to use the grant as part of the venture's working capital fund. Grants will only be awarded if projects or ventures are determined to be economically viable and sustainable.

Need and Use of the Information: RBS will use the information collected to determine (1) eligibility; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities are to be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to value-added ventures development and sustainability. Without this information, there would be no basis on which to award funds.

Description of Respondents: Farms; Business or other for-profit; Not-for-profit institutions; Individuals.

Number of Respondents: 535.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Monthly; Semi-annually; Annually.

Total Burden Hours: 57,616.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–22186 Filed 11–13–07; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting for a presentation from James Peterson with the Evergreen Foundation and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on November 27, 2007, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest Supervisor Building, 1801 N 1st Street, Hamilton, Montana. Send written comments to Dan Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: November 6, 2007.

David T. Bull,

Forest Supervisor.

[FR Doc. 07–5638 Filed 11–13–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Tuna Fisheries Logbook.

Form Number(s): None.

OMB Approval Number: 0648–0148.

Type of Request: Regular submission.

Burden Hours: 119.
Number of Respondents: 20.
Average Hours Per Response: 5 minutes.
Needs and Uses: The operators of U.S. purse seine vessels fishing for tuna in the eastern tropical Pacific Ocean are required (50CFR 300.22) to maintain logbooks of catch and effort. Information requirements include the date, noon position, and tonnage of fish on board by species. The data collected is used to meet U.S. obligations to the Inter-American Tropical Tuna Commission (IATTC) and for the management of tuna stocks.
Affected Public: Business or other for-profit organizations.
Frequency: Daily.
Respondent's Obligation: Mandatory.
OMB Desk Officer: David Rostker, (202) 395–3897.
Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).
Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22217 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).
Agency: Economic Development Administration (EDA).
Title: Application for Investment Assistance.
OMB Control Number: 0610–0094.
Form Number(s): ED–900.
Type of Review: Regular submission.
Burden Hours: 18,952.
Number of Respondents: 875.
Average Hours Per Response: 22 hours.
Needs and Uses: This information collection is necessary to determine the applicant's eligibility for investment assistance under EDA's authorizing statute, the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 *et seq.*), and regulations (13 CFR Chapter III). The information also determines the (1) quality of the proposed scope of work to address the pressing economic distress of the region in which the proposed project will be located; (2) merits of the activities for which the investment assistance is requested; and (3) ability of the eligible applicant to carry out the proposed activities successfully.
Affected Public: State and local governments; Tribal government; Institutions of higher education; Non-profit institutions; Business or other for-profit organizations; Individuals or households.
Frequency: On occasion.
Respondent's Obligation: Voluntary.
OMB Desk Officer: David Rostker, (202) 395–3897.
Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).
Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22224 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).
Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Tag Recapture Card.
Form Number(s): None.
OMB Approval Number: 0648–0259.
Type of Request: Regular submission.
Burden Hours: 8.
Number of Respondents: 240.
Average Hours Per Response: 2 minutes.
Needs and Uses: The primary objectives of a tagging program are to obtain scientific information on fish growth and movements necessary to assist in stock assessment and management. This is accomplished by the random recapture of tagged fish by fishermen and the subsequent voluntary submission of the appropriate data.
Affected Public: Individuals or households.
Frequency: On occasion.
Respondent's Obligation: Voluntary.
OMB Desk Officer: David Rostker, (202) 395–3897.
Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).
Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22227 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).
Agency: Bureau of Economic Analysis.
Title: Institutional Remittances to Foreign Countries.
OMB Control Number: 0608–0002.
Form Number(s): BE–40.
Type of Request: Regular submission.
Burden Hours: 2,100.
Number of Respondents: 790.
Average Hours Per Response: 1.5 hours.
Needs and Uses: The survey is required in order to obtain data concerning the transfer of cash grants to

foreign countries and expenditures in foreign countries by U.S. religious, charitable, educational, scientific, and similar organizations. The data are needed primarily to enable the Bureau of Economic Analysis to compile the U.S. international economic accounts. They are also used by other organizations and government agencies as general purpose economic statistics in support of a variety of policies and programs.

Affected Public: Not-for-profit institutions.

Frequency: Quarterly and annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via e-mail at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, FAX number (202) 395–7245 or via e-mail at *pbugg@omb.eop.gov.*

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22228 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2008 Coverage Followup Telephone Operation.

OMB Control Number: None.

Form Number(s): None.

Type of Request: New collection.

Burden Hours: 11,000.

Number of Respondents: 66,000.

Average Hours Per Response: 10 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget to conduct the 2008 Coverage Followup (CFU) Telephone Operation. The 2008 Census Dress Rehearsal is the final step in the decennial cycle of research and testing leading up to the implementation of the 2010 Census. The 2008 Census Dress Rehearsal will provide an opportunity to see how well the Census Bureau integrates the various operations and procedures planned for the 2010 Census under as close to census-like conditions as possible.

In order to meet our constitutional and legislative mandates, we must implement a re-engineered 2010 Census that is cost-effective, improves coverage, and reduces operational risk. Achieving these strategic goals requires an iterative series of tests to provide an opportunity to evaluate new or improved question wording, methodology, technology, and questionnaire design.

The Census Bureau previously completed three related studies designed to evaluate the efficacy of modified procedures for improving coverage (how well the Census Bureau counts people and housing units in the census) of the population and housing: (1) The 2004 Census Test Coverage Research Followup (OMB Approval Number 0607–0910); (2) the 2005 National Census Test Coverage Followup (OMB Approval Number 0607–0916); and (3) the 2006 Census Test Coverage Followup (OMB Approval Number 0607–0923.)

In support of the Census Bureau's goals, the 2008 Coverage Followup (CFU) Telephone Operation will serve to clarify initial enumeration responses in an effort to improve within household coverage by identifying erroneous enumerations and omissions. Historically, the decennial census has been affected by undercounts that affect certain demographic groups (e.g. babies and minorities), and people in certain living situations, such as renters who move often and people whose residence is complicated or ambiguous.

Coverage interviews in the decennial censuses traditionally involve a second interview with the respondent to determine if changes should be made to their household roster as reported on their initial census return. The questions in the CFU interview attempt to determine if people were missed, and/or counted incorrectly. Corrections to the roster are made, if necessary, based on the 2008 Census Dress Rehearsal residence rules.

The CFU Telephone Operation, which will be conducted May 1, 2008 through July 25, 2008, will be administered through computer assisted telephone interviews (CATI). Approximately 66,000 households will be included in the 2008 CFU telephone universe.

This operation will be conducted in the two 2008 Census Dress Rehearsal sites: San Joaquin County, California and South Central North Carolina, including Fayetteville and nine surrounding counties (Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond and Scotland).

The CFU interview includes probing questions about:

—Types of missing people,
—Where college students live,
—Where children in custody arrangements spend most of their time,
—Where those who vacation spend most of their time,
—If anyone else in the household stays anywhere else any part of the time, and
—If anyone stayed in a facility where groups of people stay.

When anyone is identified as potentially counted or omitted in error, we then ask questions to establish the appropriate census residence of that person according to the residence rules in effect for the 2008 Census Dress Rehearsal.

Census will contact respondents using telephone numbers provided by respondents on the initial census questionnaire. These interviews will be conducted at a commercial call center through CATI. The CATI script will be in English only. However, the interviewers will have a job aid which will have the instrument translated into Spanish. Because we are not conducting field interviews during Dress Rehearsal, when a telephone interview is unsuccessful, the case will be classified as a non-interview.

Affected Public: Individuals or households.

Frequency: Once.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 193.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22229 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census Coverage Measurement 2008 Person Interview and Person Interview Reinterview Operations.

OMB Control Number: None.

Form Number(s): None.

Type of Request: New collection.

Burden Hours: 2,636.

Number of Respondents: 15,813.

Average Hours Per Response: 10 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget to conduct the Census Coverage Measurement (CCM) Person Interview (PI) and Person Interview Reinterview (PIRI) operations as part of the 2008 Census Dress Rehearsal. The CCM program for the dress rehearsal is a dry run to ensure all planned coverage measurement operations are working as expected, they are integrated internally and that they are coordinated with the appropriate census operations. The CCM operations planned for the dress rehearsal, to the extent possible, will mirror those that will be conducted for the 2010 Census to provide estimates of *net coverage error* and *components of coverage error* (omissions and erroneous enumerations) for housing units and persons in housing units. The data collection and matching methodologies for previous coverage measurement programs were designed only to measure *net coverage error*, which reflects the difference between omissions and erroneous inclusions.

The 2008 CCM PI operations will use a sample of approximately 14,375 housing units split evenly between selected census tracts in San Joaquin County, California; and Fayetteville, North Carolina and nine surrounding counties (Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, and Scotland). The PIRI operations will be in the same areas and will consist of 1,438 units to make a total of 15,813 units.

The automated PI instrument will be used to collect the following information for persons in housing units only:

1. Roster of people living at the housing unit at the time of the CCM PI Interview.
2. Census Day (April 1, 2008) address information from people who moved into the sample address since Census Day.
3. Other addresses where a person may have been counted on Census Day.
4. Other information to help us determine where a person should have been counted as of Census Day (relative to Census residence rules). For example, enumerators will probe for persons who might have been left off the household roster; ask additional questions about persons who moved from another address on Census Day to the sample address; collect additional information for persons with multiple addresses; and collect information on the addresses of other potential residences for household members.
5. Demographic information for each person in the household on Interview Day or Census Day, including name, date of birth, sex, race, Hispanic Origin, and relationship.
6. Name and above information for any person who has moved out of the sample address since Census Day (if known).

Census will also conduct a quality control operation—PI Reinterview (PIRI) on 10 percent of the PI cases. The purpose of the operation is to confirm that the PI enumerator conducted a PI interview with an actual household member or a valid proxy respondent and conduct a full person interview when falsification is suspected. If PIRI results indicate falsified information by the original enumerator, all cases worked by the original enumerator are reworked by reassigning the cases to a different PI enumerator.

The 2008 CCM Test is needed in order to test the entire operation with all steps as developed from results of previous tests. This is to ensure that they are integrating properly and working as expected. It is also important to test timing of each part of the operation to make sure they coordinated properly with the census operations. This is particularly important because 2008 dress rehearsal is the first time in the 2010 testing cycle that coverage measurement operation for housing units will be conducted.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 193.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22235 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Survey of Industrial Research and Development.

OMB Control Number: 0607–0912.

Form Number(s): RD–1, RD–1A.

Type of Request: Revision of a currently approved collection.

Burden Hours: 70,750.

Number of Respondents: 32,000.

Average Hours Per Response: RD–1—8 hours, and RD–1A—1.5 hours.

Needs and Uses: The Census Bureau is requesting a revision of the currently approved collection for the annual Survey of Industrial Research and Development the Survey) that is conducted jointly by the U.S. Census Bureau and the National Science Foundation (NSF). Under a joint project agreement between NSF and the Census Bureau, the Census Bureau is responsible for obtaining clearance of the Survey.

The National Science Foundation Act of 1950 as amended authorizes and directs NSF "* * * to provide a central clearinghouse for the collection, interpretation, and analysis of data on

scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal government.'' The Survey is the vehicle with which NSF carries out the industrial portion of this mandate. NSF together with the Census Bureau, the collecting and compiling agent, analyze the data and publish the resulting statistics.

Industry is the major performer of research and development (R&D) in the United States, spending over 70 percent of total U.S. R&D outlays each year. A consistent industrial R&D information base is essential to government officials formulating public policy, industry personnel involved in corporate planning, and members of the academic community conducting research. To develop policies designed to promote and enhance science and technology, past trends and the present status of R&D must be known and analyzed. Without comprehensive industrial R&D statistics, it would be impossible to evaluate the health of science and technology in the United States or to make comparisons between the technological progress of our country and that of other nations.

Statistics from the Survey are published in NSF's annual publication series, Research and Development in Industry, available via the Internet at *www.nsf.gov/statistics/industry.* Since 1953, this survey has provided continuity of statistics on R&D expenditures by major industry groups and by source of funds. Over the years, questions on a number of additional areas have been added to the Survey as the need for this R&D information became necessary for policy formulation and research.

In the last request for OMB review, response to five questions (total net sales and total employment for the company; and the amount of Federal and total funds the company spent on R&D and cost of R&D performed within the company by state) was mandatory and fulfilled the Census Bureau's data-collecting mandate in Title 13, U.S. Code, Sections 131, 182, 224, and 225. Further, authorization to make the entire survey mandatory every five years to coincide with the Census Bureau's Economic Census was requested and approved. The 'all-mandatory' requirement was last applied for the 2002 cycle of the Survey. The next economic census will be conducted for 2007 and authorization to apply the requirement is requested.

The Census Bureau and NSF also request to add item 13 from Form RD–1 to Form RD–1A—R&D by type of expense. This item has been on the Form RD–1 for several years and survey respondents have shown the ability to provide data for this item. Collecting this information on both forms will allow the Census Bureau and NSF to have a more complete estimate of R&D expense by type.

The Census Bureau and the NSF are planning a redesign of the Survey. The Census Bureau will provide a separate OMB submission for the redesigned survey to be implemented for survey year 2008.

Policy officials from many Federal agencies rely on statistics from this survey for essential information. For example, total U.S. R&D expenditures statistics have been used by the Bureau of Economic Analysis (BEA) to update the System of National Accounts and BEA has established a separate R&D satellite account in the System. Results from the Survey are needed to develop and subsequently update this detailed satellite account. Also a data linking project was designed to augment the Foreign Direct Investment (FDI) data collected by BEA. This project was the first conducted under new data sharing legislation. The linking of the results of the 1997 and 1999 cycles of the Survey with BEA's 1997 and 1999 FDI benchmark files was the first application of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) that allows limited data sharing among selected Federal statistical agencies. The Census Bureau and NSF are preparing to conduct annual linkage projects of the R&D data to the FDI and USDIA data, commencing with the 2004 survey files. Plans also call for the possible linkage of the 2007 and future survey files. Further, the Census Bureau links data collected by the Survey with other statistical files. At the Census Bureau, historical company-level R&D data are linked to a file that contains information on the outputs and inputs of companies' manufacturing plants.

Researchers are able to analyze the relationships between R&D funding and other economic variables by using micro-level data.

Many individuals and organizations access the survey statistics via the Internet and hundreds have asked to have their names placed on the mailing list for a paper copy of the annual SRS InfoBrief that announces the availability of statistics from each cycle of the Survey. Information about the kinds of projects that rely on statistics from the Survey is available from internal records of NSF's Division of Science Resources Statistics (SRS). In addition, survey statistics are regularly printed in trade publications and many researchers use the survey statistics from these secondary sources without directly contacting NSF or the Census Bureau.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 131, 182, 224, and 225.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22273 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Monthly Wholesale Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before January 14, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Miller, U.S. Census Bureau, Room 8K081, Washington, DC 20233–6500, (301) 763–2758.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Monthly Wholesale Trade Survey provides the only continuous measure of monthly sales, end-of-month inventories, and inventories/sales ratios in the United States by selected kinds of business for merchant wholesalers, excluding manufacturers' sales branches and offices. The Bureau of Economic Analysis uses this information to improve the inventory valuation adjustments applied to estimates of the Gross Domestic Product. The Bureau of Labor Statistics uses the data as input to their Producer Price Indexes and in developing productivity measurements.

Estimates produced from the Monthly Wholesale Trade Survey are based on a probability sample and are published on the North American Industry Classification System (NAICS) basis. The sample design consists of small, medium, and large cases requested to report sales and inventories each month. The sample, consisting of about 4,500 wholesale businesses, is drawn from the Business Register, which contains all Employer Identification Numbers (EINs) and listed establishment locations. The sample is updated quarterly to reflect employer business ''births'' and ''deaths''; adding new employer businesses identified in the Business and Professional Classification Survey and deleting firms and EINs when it is determined they are no longer active.

The Monthly Wholesale Trade Survey will continue to generate its monthly report form through a print-on demand system. This system allows us to tailor the survey instrument to a specific industry. For example, it will print an additional instruction for a particular NAICS code. This system also reduces the time and cost of preparing mailout packages that contain unique variable data, while improving the look and quality of the products being produced.

II. Method of Collection

This information is collected by mail, fax, and telephone follow-up.

III. Data

OMB Control Number: 0607–0190.

Form Number: SM–42(00), SM–42F(00).

Type of Review: Regular submission.

Affected Public: Merchant wholesale firms, excluding manufacturers' sales branches and offices, which operate in the United States.

Estimated Number of Respondents: 4,500.

Estimated Time Per Response: 7 minutes.

Estimated Total Annual Burden Hours: 6,300.

Estimated Total Annual Cost: $165,438.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22232 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; International Travel Expenditures

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before 5 p.m. January 14, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or via e-mail at *dHynek@doc.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Mann, Chief, Current Account Services Branch, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; fax: (202) 606–5314; or via e-mail at *michael.mann@bea.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis (BEA) is responsible for the compilation of the U.S. international transactions accounts (ITA's), which it publishes quarterly in news releases, on its Web site, and in its monthly journal, the Survey of Current Business. These accounts provide a statistical summary of all U.S. international transactions and, as such, are one of the major statistical products of BEA. They are used extensively by both government and private organizations for national and international economic policy formulation and for analytical purposes. Travel is a major component of trade in services in the ITAs, accounting for over 20 percent of both exports and imports of services in 2006. BEA seeks to improve the quality of these important estimates by using data on credit card transactions to form the core of the travel estimates. A survey of travelers is needed to estimate those transactions involving other means of payment. This survey is the subject of this notice. The survey will collect data from international travelers on their expenditures by method of payment (credit card, cash, prepaid expenditures, etc.) and will be designed to integrate with data that would be collected on credit card transactions.

II. Method of Collection

The information will be collected on a short survey of U.S. residents returning from travel abroad and foreign residents returning to their home countries after a trip to the United States. There will be two versions of the survey: one for U.S. travelers, and one for foreign travelers. The version for foreign travelers will be translated into several foreign languages. The survey will be voluntary, and a small monetary incentive will be offered to respondents. It will be conducted in a sample of U.S. international airports in four waves over

the course of one year. This is a one-time survey, but may be repeated periodically in the future to refresh the factors used to estimate the travel account.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 1,000.

Estimated Total Annual Cost: $40,000.

Respondent's Obligation: Voluntary.

Legal Authority: Bretton Woods Agreement Act, Section 8, and E.O. 10033, as amended.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22231 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836, A–489–815, A–580–859]

Light–Walled Rectangular Pipe and Tube from Mexico, Turkey, and the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigations

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

EFFECTIVE DATE: November 14, 2007.

FOR FURTHER INFORMATION CONTACT: Robert James or David Cordell, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0649 and (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On July 17, 2007, the Department of Commerce (the Department) initiated the antidumping duty investigations of light–walled rectangular pipe and tube from Mexico, Turkey, and the Republic of Korea. *See Initiation of Antidumping Duty Investigations: Light–Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007). The notice of initiation stated that the Department would issue its preliminary determinations for these investigations no later than 140 days after the date of issuance of the initiation (*i.e.*, December 4, 2007) in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act).

On October 19, 2007, the petitioners, Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE,[1] Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (the petitioners) made a timely request pursuant to 19 CFR 351.205(e) for a postponement of the preliminary determination with respect to Mexico, Turkey, and the Republic of Korea. The petitioners requested postponement of the preliminary determinations with respect to these three countries because the investigations are extraordinarily complicated given the number of concurrent investigations of the subject merchandise, the complexity of the transactions to be investigated, and the novelty of the issues presented including targeted dumping and the offset of positive margins by negative margins.

For the reasons identified by the petitioner and because there are no compelling reasons to deny the request, the Department is postponing the deadline for the preliminary determinations with respect to Mexico, Turkey, and the Republic of Korea pursuant to section 733(c)(1)(A) of the Act by 50 days to January 23, 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 section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 6, 2007.

Stephen Claeys,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E7–22274 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–DS–S

[1] EXLTUBE is not a petitioner with respect to Mexico.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 071017605–7606–01]

Establishment of a Laboratory Accreditation Program for Laboratories That Test Personal Body Armor

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP) the National Institute of Standards and Technology (NIST) announces the establishment of a laboratory accreditation program and the availability of applications for accreditation of laboratories that perform testing of body armor using National Institute of Justice draft standard 0101.06 Ballistic Resistance of Personal Body Armor developed by the NIST Office of Law Enforcement Standards for the Department of Justice (DoJ). Additional standards may be added in the future.

DATES: Laboratories interested in seeking accreditation are required to submit an application to NVLAP and pay required fees. Laboratories wishing to be considered for accreditation in the first group must submit applications by

December 15, 2007. Laboratories whose applications are received after that date will be considered on an as-received basis.

ADDRESSES: Laboratories may obtain NIST Handbook 150, *NVLAP Procedures and General Requirements,* NIST Handbook 150–24, *Personal Body Armor,* and an application for accreditation for this program by calling (301) 975–4016, by writing to NVLAP Body Armor Testing Program Manager, National Voluntary Laboratory Accreditation Program, 100 Bureau Drive/MS 2140, Gaithersburg, MD 20899–2140, or by sending e-mail to *nvlap@nist.gov.* All applications for accreditation must be submitted to: NVLAP/Accounts, National Institute of Standards and Technology, Building 101, Room A800, 100 Bureau Drive/MS 1624, Gaithersburg, MD 20899–1624.

FOR FURTHER INFORMATION CONTACT: Hazel M. Richmond, Program Manager, NIST/NVLAP, 100 Bureau Drive/MS 2140, Gaithersburg, MD 20899–2140, Phone: (301) 975–3024, or e-mail: *hazel.richmond@nist.gov.* Information regarding NVLAP and the accreditation process can be viewed at *http://www.nist.gov.nvlap.*

SUPPLEMENTARY INFORMATION:

Background

The United States Department of Justice (DoJ), National Institute of Justice (NIJ) requested that NIST establish a laboratory accreditation program for laboratories that test body armor for the DoJ law enforcement certification program. In response to the request from NIJ, and after consultation with interested parties through public workshops and other means, the Chief of NVLAP established an accreditation program for laboratories that test for the ballistic resistance of personal body armor.

This notice is issued in accordance with NVLAP procedures and general requirements, found in Title 15 Part 285 of the Code of Federal Regulations.

Technical Requirements for the Accreditation Process

NVLAP assessments are conducted in accordance with the National Voluntary Laboratory Accreditation Program regulations, which are found at 15 CFR 285. NVLAP accreditation is in full conformance with relevant standards of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), including ISO/IEC 17025.

Accreditation is granted to a laboratory following successful completion of a process, which includes submission of an application and payment of fees by the laboratory, a review of the laboratory management system documentation, an on-site assessment by technical experts, participation in proficiency testing, and resolution of any management system or technical nonconformities identified during any phase of the application process. The accreditation is formalized through issuance of a Certificate of Accreditation and Scope of Accreditation.

General requirements for accreditation are given in NIST Handbook 150, *NVLAP Procedures and General Requirements.* The specific technical and administrative requirements for the program for accreditation of laboratories that test body armor are given in the draft NIST Handbook 150–24, *Personal Body Armor.* Laboratories must meet all NVLAP criteria and requirements in order to become accredited. To be considered for accreditation, the applicant laboratory must provide a completed application to NVLAP, pay all required fees, agree to conditions for accreditation, and must be competent to perform the tests prescribed in the standard.

Application Requirements

(1) Legal name and full address of the laboratory;

(2) Ownership of the laboratory;

(3) Authorized Representative's name and contact information;

(4) Names, titles, and contact information for laboratory staff nominated to serve as Approved Signatories of test or calibration reports that reference NVLAP accreditation;

(5) Organization chart defining relationships that are relevant to performing testing and calibrations covered in the accreditation request;

(6) General description of the laboratory, including its facilities and scope of operations; and

(7) Requested scope of accreditation.

For this program, the laboratory shall provide a copy of its management system documents, including quality manual and related documentation, where appropriate, prior to the on-site assessment. NVLAP will review the management system documentation and discuss any nonconformities with the Authorized Representative before the on-site visit. Laboratories that apply for accreditation will be required to pay NVLAP fees and undergo on-site assessment and shall meet proficiency testing requirements before initial accreditation can be granted.

Paperwork Reduction Act

This action contains a collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995. Collection activities for NVLAP are currently approved by OMB under control number 0693–0003. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

Dated: November 6, 2007.

Richard F. Kayser,

Acting Deputy Director.

[FR Doc. E7–22266 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southwest Region Vessel Identification Requirements

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

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 14, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Trisha Culver, (562) 980–4230 or *trisha.culver@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR part 660.16 require that all vessels with Federal permits to fish in the Southwest display the vessel's official number. The

numbers must be a specific size at specified locations. The display of the identifying number aids in fishery law enforcement.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0361.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 2,000.
Estimated Time Per Response: 45 minutes.
Estimated Total Annual Burden Hours: 1,500.
Estimated Total Annual Cost to Public: $20,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22218 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Prohibited Species Donation Program

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

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 14, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *patsy.bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS), Alaska Region seeks to renew a collection of information for the continued management of the Prohibited Species Donation Program (PSD Program). Certain incidental catch of prohibited species, salmon and Pacific halibut, cannot be retained by fishing vessels due to management controls, and such prohibited species are usually discarded. Under the PSD Program, these fish may be donated to certain tax exempt groups for distribution to needy individuals. NMFS uses the information on the PSD distributor application to determine an organization's nonprofit status. In addition, the application provides information about the ability of the organization to arrange for and distribute donated salmon and Pacific halibut as a high quality food product. If the application requests distribution of more than one type of prohibited species, complete information must be supplied for each species, noting any differences in procedure. NMFS publishes notice of the selection of PSD distributors in the **Federal Register**. The reporting documentation is required to monitor the PSD Program and to ensure that donations go to authorized parties for legitimate purposes.

II. Method of Collection

The application to become a PSD distributor is submitted to NMFS as a letter, which can be mailed or attached to an e-mail. Processor and distributor maintain records required to track salmon and Pacific halibut retained under the PSD Program, and distributors keep updated lists of program participants.

III. Data

OMB Number: 0648–0316.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 21.

Estimated Time Per Response: 40 hours for an application to become a NMFS authorized distributor; 12 minutes for Distributor's List of PSD Program Participants; 12 minutes for Distributor's product monitoring and retention of records; and 6 minutes for labeling, product tracking, and retention of records by processor.

Estimated Total Annual Burden Hours: 229.

Estimated Total Annual Cost to Public: $ 0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 7, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–22230 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD71

Vessel Monitoring Systems; Announcement of the Enhanced Mobile Transmitter Unit Reimbursement Program for the Pacific Coast Groundfish Fishery, Open Access Sector

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

ACTION: Notice.

SUMMARY: NMFS announces the availability of grant funds for vessel owners and/or operators who have purchased an Enhanced Mobile Transmitting Unit (E-MTU) for the purpose of complying with fishery regulations requiring the use of Vessel Monitoring System (VMS)in the Pacific Coast Groundfish Fishery, Open Access Sector. These funds will be used to reimburse vessel owners and/or operators for the purchase price of the E-MTU.

FOR FURTHER INFORMATION CONTACT: For current listing information, questions regarding VMS installation or activation checklists, contact the VMS Support Center, NOAA Fisheries Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910, phone 888–219–9228, fax 301–427–0049.

For questions regarding E-MTU type approval or information regarding the status of VMS systems being evaluated by NOAA for approval, contact Jonathan Pinkerton, National VMS Program Manager, phone 301–427–2300; fax 301–427–2055.

For questions regarding reimbursement applications contact Randy Fisher, Executive Director, Pacific States Marine Fisheries Commission (PSMFC), 205 SE Spokane Street, Suite 100, Portland, OR 97202, phone 503–595–3100, fax 503–595–3232.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

This reimbursement opportunity is available to fishing vessel owners and/or operators that have purchased an approved E-MTU device in order to comply with fishery regulations developed in accordance with 16 U.S.C. 1801 *et seq.* Only those vessel owners and/or operators purchasing an E-MTU for compliance with fishery management regulations applicable to the Pacific Coast Groundfish Fishery, Open Access Sector are eligible for this funding opportunity. The reimbursable expense is the purchase price (as defined below)of an E-MTU type-approved for the Pacific Coast Groundfish Fishery, Open Access Sector for which the owner and/or operator holds a valid commercial fishing license.

II. Eligibility

To be eligible to receive reimbursement vessel owners and/or operators must first purchase an E-MTU type-approved for the Pacific Coast Groundfish Fishery, Open Access Sector from an authorized E-MTU dealer and receive a receipt of purchase from the authorized E-MTU dealer. The vessel owner and/or operator must have the E-MTU properly installed by an authorized dealer or installer on the vessel and activated utilizing a type-approved communications provider. Upon completion of the installation and activation process, the vessel owner and/or operator must contact the VMS Support Center by calling 888–219–9228 to ensure the vessel is properly activated and registered in the VMS system. OLE does not consider a vessel in compliance with activation and registration procedures until the E-MTU signal has been received and processed by OLE.

Vessel owners and/or operators must not be in arrears with a payment owed to the Agency for a civil monetary penalty. Affected vessel owners and/or operators may become eligible for the reimbursement if the outstanding penalty is paid in full within 30 days of the denial of the reimbursement. After payment, vessel owners and/or operators must contact the VMS Support Center and provide documentation to support the defrayment of the penalty to receive a confirmation code for reimbursement purposes.

III. Process

Vessel owners and/or operators that have purchased an E-MTU, and have validated their compliance with the applicable regulations through OLE, may contact the PSMFC, 205 SE Spokane Street, Suite 100, Portland, OR 97202, phone 503–595–3100, fax 503–595–3232, for a reimbursement application. Once the application is received and completed by the vessel owner and/or operator, it must be returned to PSMFC along with proof of eligibility in order to qualify for the reimbursement. The required proof of eligibility includes proof of authorized operation of a commercial fishing vessel in the Pacific Coast Groundfish Fishery, Open Access Sector; purchase receipt from an authorized E-MTU dealer, purchase price of a type-approved E-MTU; and a valid compliance confirmation code issued by OLE.

Vessel owners and/or operators are not restricted as to which type-approved E-MTU device they can purchase. However, the amount of the reimbursement will be limited to the cost of the least expensive E-MTU type-approved for the fishery. Vessel owners and/or operators are encouraged to compare the features of all E-MTU devices type-approved for the Pacific Coast Groundfish Fishery, Open Access Sector and explore finance options prior to making a purchase decision. Vessel owners/operators are limited to the reimbursement of the cost of purchasing one E-MTU per registered vessel.

Dated: November 7, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–22239 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 070817470–7647–02]

RIN 0648–ZB83

Availability of Grants Funds for Fiscal Year 2008

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

ACTION: Notice.

SUMMARY: NOAA publishes this notice to change the full proposal submission deadline for the solicitation ''FY 2008 Regional Integrated Ocean Observing Systems,'' which was originally announced in the **Federal Register** on July 2, 2007. This notice applies to all applicants who have previously submitted a letter of intent to propose.

DATES: Proposals must be submitted no later than 5 pm, Eastern Time, December 3, 2007.

ADDRESSES: Full proposal application packages should be submitted through Grants.gov APPLY. The standard NOAA funding application package is available at *www.grants.gov.*

If an applicant does not have Internet access, the applicant must submit through surface mail one set of originals (signed) and two copies of the proposals and related forms to the Coastal Services

Center. No e-mail or fax copies will be accepted. Any U.S. Postal Service correspondence should be sent to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina, 29405–2413.

FOR FURTHER INFORMATION CONTACT: For administrative issues, contact James Lewis Free at 843–740–1185 (phone) or by e-mail at *James.L.Free@noaa.gov.* Technical questions on the IOOS announcement should be directed to the following people: Mary Culver at 843–740–1250 (phone) or by e-mail at *Mary.Culver@noaa.gov;* or Geno Olmi at 843–740–1230 (phone) or by e-mail at *Geno.Olmi@noaa.gov.*

SUPPLEMENTARY INFORMATION: NOAA publishes this notice to change the full proposal submission deadline for the solicitation ''FY 2008 Regional Integrated Ocean Observing Systems'' announced in the **Federal Register** on July 2, 2007 (72 FR 36263). This notice applies to all applicants who have previously submitted a letter of intent to propose. All other requirements for this solicitation remain the same.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program is cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Applicants are hereby given notice that funding for the Fiscal Year 2008 program is contingent upon the availability of Fiscal Year 2008 appropriations.

Universal Identifier

Applicants should be aware they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002, **Federal Register**, (67, FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the Internet at *http://www.dunandbradstreet.com.*

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.* Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

The Department of Commerce Preaward Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: November 8, 2007.

Elizabeth R. Scheffler,

Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

[FR Doc. E7–22244 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD86

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's Scientific and Statistical Committee (SSC) will hold a two-day meeting.

DATES: The SSC meeting will be held on November 29–30, 2007.

ADDRESSES: The meeting will be held at the Pierre Hotel at Gallery Plaza, De Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council,

268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The SSC will meet to discuss the items contained in the following agenda:

•Call to order

•Presentation on Acceptable Biological Catches (ABCs), Annual Catch Limits (ACLs), Accountability Measures (AMs) Guidelines, if available

•Presentation Data and Models for setting ACLs

•Presentation Queen Conch - David Olsen

-Extended Closed Season/Quota for Eastern St. Croix exclusive economic zone (EEZ)

•Recommendations to the Caribbean Fishery Management Council

•Five-year Research Plan Recommendations

•Public Comment Period

•Other Business

•Next Meeting

The SSC will convene on November 29 and November 30, 2007, from 9 a.m. until 4:30 p.m.

The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920; telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: November 8, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22198 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD85

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee in November, 2007 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, November 26, 2007 at 12 p.m.

ADDRESSES: This meeting will be held at the Hilton Garden Inn, One Thuber Street, Warwick, RI 02886; telephone: (401) 734–9600; fax: (401) 734–9700.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review new population dynamic estimates for winter and thorny skate rebuilding using new life history data. It will also review a proposed method for setting annual skate fishery catch limits to initiate rebuilding. The purpose of Amendment 3 to the Skate Fishery Management Plan is to begin rebuilding winter and thorny skate, as well as to prevent little and smooth skate from becoming overfished.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: November 8, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22197 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD87

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Trawl Rationalization Tracking and Monitoring Committee (TRTMC) will hold a working meeting, which is open to the public.

DATES: The TRTMC meeting will be held Friday, November 30, 2007, from 8:30 a.m. until business for the day is completed.

ADDRESSES: The TRTMC meeting will be held at the Hotel Deca Seattle, Chancellor Room, 4507 Brooklyn Avenue NE, Seattle, WA 98105; telephone: (206) 634–2000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The Council is considering a rationalization program to cover limited entry trawl landings in the West Coast groundfish fishery. The purpose of the TRTMC working meeting is to provide agency guidance and perspectives on design constraints and to scope likely impacts of alternative configurations of tracking and monitoring systems for trawl rationalization.

Although non-emergency issues not contained in the meeting agenda may come before the TRTMC for discussion, those issues may not be the subject of formal TRTMC action during this meeting. TRTMC action will be

restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the TRTMC's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: November 8, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22199 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Period of Determination for Textile and Apparel Safeguard Action on Imports From Honduras of Cotton, Wool and Man-Made Fiber Socks

November 6, 2007.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee).

ACTION: Notice.

SUMMARY: The Committee is extending through December 19, 2007 the period for making a determination on whether to request consultations with Honduras regarding imports of cotton, wool and man-made fiber socks (merged Category 332/432 and 632 part).

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2487.

SUPPLEMENTARY INFORMATION:

Authority: Title III, Subtitle B, Section 321 through Section 328 of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR'' or the ''Agreement'') Implementation Act; Article 3.23 of the Dominican Republic-Central America-United States Free Trade Agreement.

Background

In accordance with section 4 of the Committee's Procedures (''Procedures'') for considering action under the CAFTA–DR textile and apparel safeguard, (71 FR 25157, April 28, 2006), the Committee decided, on its own initiative, to consider whether imports of Honduran origin cotton, wool and man-made fiber socks are being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for cotton, wool and man-made fiber socks, and under such conditions as to cause serious damage, or actual threat thereof, to the U.S. industry producing these products.

On August 21, 2007 the Committee solicited public comments regarding possible safeguard action on imports from Honduras of cotton, wool and man-made fiber socks (merged Category 332/432 and 632 part). This 30-day period allowed the public an opportunity to provide information and analysis to assist the Committee in considering this issue and in determining whether safeguard action is appropriate. See *Solicitation of Public Comments Regarding Possible Safeguard Action on Imports from Honduras of Cotton, Wool and Man-Made Fiber Socks*, 72 FR 46611.

The Procedures state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with Honduras. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination.

The 60 day determination period for this case will expire on November 19, 2007. However, the Committee decided to extend until December 19, 2007, the period for making a determination on this case to continue examining the public comments, trade data and all other relevant information available to determine whether a request for consultations with Honduras and import tariff relief to the U.S. industry producing socks is warranted.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–22156 Filed 11–13–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

United States Marine Corps; Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The U.S. Marine Corps is deleting a system of records notice from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: Effective November 14, 2007.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC–ARSE), 2 Navy Annex, Room 1005, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps' records system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The U.S. Marine Corps proposes to delete a system of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION

MMN00018

SYSTEM NAME:

Base Security Incident Report System (February 22, 1993, 58 FR 10630).

REASON:

With the U.S. Marine Corps being a principal component of the Department of Navy, they are combining like systems. These records are now filed in the Navy's NM05580–1, Security Incident System which was published in the **Federal Register** on January 9, 2007, with number 72 FR 958.

[FR Doc. E7–22194 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0119]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records

notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 14, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a (r), of the Privacy Act of 1974, as amended, were submitted on November 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

S434.87 DLA–C

SYSTEM NAME:

Debt Records for Individuals (February 22, 1993, 58 FR 10854).

CHANGES:

SYSTEM IDENTIFIER:

Delete ''DLA–C'' from entry.

SYSTEM LOCATION:

Delete entry and replace with ''Financial Services and Accounting Division, Accounting Operations Branch, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2745, Fort Belvoir, VA 22060–6221 and the Financial Services Offices at the Defense Logistics Agency (DLA) Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Current and former civilian employees and military personnel (including those who have retired) who are indebted to the Defense Logistics Agency. Also included are those individuals who are indebted to other federal agencies for which DLA has assumed collection responsibility.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Debtor's name, Social Security Number (SSN), debt principal amount, interest and penalty amount, if any, debt reason, debt status, demographic information such as grade or rank, sex, date of birth, duty and home address, various dates identifying the status changes occurring in the debt collection process, documents furnished by individual concerning financial condition, personnel actions, and requests for waiver of indebtedness.

Correspondence with other federal agencies to initiate the collection of debts through voluntary or involuntary offset procedures against the indebted employees' salaries or compensation due a retiree.

Correspondence with other federal agencies requesting administrative offset from payments owed to the debtor. These records may include individual's name, rank, date of birth, Social Security Number (SSN), debt amount, documentation establishing overpayment status, military pay records, financial status affidavits, credit references, and substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts, records of travel payments, financial record data folders, miscellaneous vouchers, debtor financial records, credit reports, promissory notes, and debtor financial statements.

Information on U.S. Treasury Department, Internal Revenue Service (IRS), U.S. Department of Justice, and U.S. General Accounting Office (GAO) inquiries, judicial proceedings regarding bankruptcy, pay account histories, and token payment information.

Applications for waiver of erroneous payment or for remission of indebtedness with supporting documents including statements of financial status (personal income and expenses), statements of commanders or Defense Accounting Officers, correspondence with debtors, or records of overpayments of Survivor Benefit Plan benefits.

Reports from probate courts regarding the estates of deceased debtors.

Reports from bankruptcy courts regarding claims of the U.S. Government against debtors.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''Debt Collection Act of 1982 (Pub. L. 97–365) as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134); 5 U.S.C. 5514, Installment Deduction of Indebtedness; 31 U.S.C. 3711, Collection and Compromise; 31 U.S.C. 3716, Administrative Offset; 10 U.S.C. 136; 4 CFR 101.1–105.5, Federal Claims Collection Standards; 5 CFR 550.1101–1108, Collection by Offset from Indebted Government Employees; Guidelines on the Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982, March 30, 1983 (48 FR 15556, April, 1983); the Interagency Agreement for Federal Salary Offset Initiative (Office of Management and Budget, Department of the Treasury, Office of Personnel Management and the Department of Defense, April 1987); and E.O. 9397 (SSN).''

PURPOSE(S):

Delete entry and replace with ''The purpose for this system of records is to support the DLA debt management program in identifying, recovering, and collecting debts owed by individuals to the U.S. Government, as appropriate.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Government Accountability Office, the U.S. Department of Justice, Internal Revenue Service, U.S. Department of Treasury, or other federal agencies for further collection action on any delinquent account when circumstances warrant.

To commercial credit reporting agencies for the purpose of adding debt payment or non-payment data to a credit history file on an individual for use in the administration of debt collection. Delinquent debt information may be furnished for the purpose of establishing an inducement for debtors to pay their obligations to the U.S. Government.

To any federal agency where the debtor is employed or receiving some type of payment from that agency for the purpose of collecting debts owed the U.S. Government by non-centralized offset. Non-centralized offset encompasses an offset program administered by any federal agency

other than the U.S. Department of Treasury. The agency holding the payment subject to offset will use the indebtedness information for collection purposes after counseling the debtor. The collection may be accomplished either voluntarily or involuntarily by initiating administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, as amended by Pub. L. 104–134, the Debt Collection Improvement Act of 1996).

To the U.S. Department of Treasury (DOT) for centralized administrative or salary offset, including the offset of federal income tax refunds, for the purpose of collecting debts owed the U.S. Government; to the DOT contracted private collection agencies for the purpose of obtaining collection services, including administrative wage garnishment (AWG) in accordance with the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), 31 U.S.C. 3720D, and 31 CFR part 285, to recover moneys owed to the U.S. Government.

To any federal agency for the purpose of accomplishing the administrative procedures to collect or dispose of a debt owed to the U.S. Government. This includes, but is not limited to, the Office of Personnel Management for personnel management functions and the Internal Revenue Service to obtain a mailing address of a taxpayer for the purpose of locating such taxpayer to collect or compromise a federal claim against the taxpayer pursuant to 26 U.S.C. 1603(m)(2), and in accordance with 31 U.S.C. 3711, 3217, and 3718. The Internal Revenue Service may also request locator service for delinquent accounts receivable in order to report closed out accounts as taxable income, including amounts compromised or terminated, and accounts barred from litigation due to age.

The DOD ''Blanket Routine Uses'' also apply to this system of records.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by the debtor's name and Social Security Number (SSN).''

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in controlled facilities where physical entry is restricted by the use of locks, guards, and/or to authorized personnel only. Access to records is limited to person(s) responsible for servicing the records in the performance of their official duties and who are properly screened and cleared for need-to-know.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are destroyed 3 years after final action is terminated.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief, Accounting Operations Branch, Financial Services and Accounting Division, Office of Comptroller, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2745, Fort Belvoir, VA 22060–6221.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the HQ DLA Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: HQ DLA–GC (FOIA/Privacy), 8725 John J. Kingman Road, Stop 1644, Fort Belvior, VA 22060–6221 or to the appropriate DLA Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Requests should include the individual's full name, Social Security Number (SSN), address, and a telephone number where they may be reached.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the HQ DLA Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: HQ DLA–GC (FOIA/Privacy), 8725 John J. Kingman Road, Stop 1644, Fort Belvior, VA 22060–6221 or to the appropriate DLA Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Requests should include the individual's full name, Social Security Number, address, and a telephone number where they may be reached.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual debtor, DLA Financial Services Offices documents, and/or personnel offices) and documents from other federal agencies for which DLA has assumed collection responsibility.''

* * * * *

S434.87

SYSTEM NAME:

Debt Records for Individuals.

SYSTEM LOCATION:

Financial Services and Accounting Division, Accounting Operations Branch, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2745, Fort Belvoir, VA 22060–6221 and the Financial Services Offices at the Defense Logistics Agency (DLA) Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilian employees and military personnel (including those who have retired) who are indebted to the Defense Logistics Agency (DLA). Also included are those individuals who are indebted to other federal agencies for which DLA has assumed collection responsibility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Debtor's name, Social Security Number (SSN), debt principal amount, interest and penalty amount, if any, debt reason, debt status, demographic information such as grade or rank, sex, date of birth, duty and home address, various dates identifying the status changes occurring in the debt collection process, documents furnished by individual concerning financial condition, personnel actions, and requests for waiver of indebtedness.

Correspondence with other federal agencies to initiate the collection of debts through voluntary or involuntary offset procedures against the indebted employees' salaries or compensation due a retiree.

Correspondence with other federal agencies requesting administrative offset from payments owed to the debtor. These records may include individual's name, rank, date of birth, Social Security Number, debt amount, documentation establishing overpayment status, military pay records, financial status affidavits, credit references, and substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts, records of travel payments, financial record data folders, miscellaneous vouchers, debtor financial records, credit reports, promissory notes, and debtor financial statements.

Information on U.S. Treasury Department, Internal Revenue Service (IRS), U.S. Department of Justice, and U.S. General Accounting Office (GAO) inquiries, judicial proceedings regarding bankruptcy, pay account histories, and token payment information.

Applications for waiver of erroneous payment or for remission of indebtedness with supporting documents including statements of financial status (personal income and expenses), statements of commanders or Defense Accounting Officers, correspondence with debtors, or records of overpayments of Survivor Benefit Plan benefits.

Reports from probate courts regarding the estates of deceased debtors.

Reports from bankruptcy courts regarding claims of the U.S. Government against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134); 5 U.S.C. 5514, Installment Deduction of Indebtedness; 31 U.S.C. 3711, Collection and Compromise; 31 U.S.C. 3716, Administrative Offset; 10 U.S.C. 136; 4 CFR 101.1–105.5, Federal Claims Collection Standards; 5 CFR 550.1101–1108, Collection by Offset from Indebted Government Employees; Guidelines on the Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982, March 30, 1983 (48 FR 15556, April, 1983); the Interagency Agreement for Federal Salary Offset Initiative (Office of Management and Budget, Department of the Treasury, Office of Personnel Management and the Department of Defense, April 1987); and E.O. 9397 (SSN).

PURPOSE(S):

The purpose for this system of records is to support the DLA debt management program in identifying, recovering and collecting debts owed by individuals to the U.S. Government, as appropriate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Government Accountability Office, the U.S. Department of Justice, Internal Revenue Service, U.S. Department of the Treasury, or other federal agencies for further collection action on any delinquent account when circumstances warrant.

To commercial credit reporting agencies for the purpose of adding debt payment or non-payment data to a credit history file on an individual for use in the administration of debt collection. Delinquent debt information may be furnished for the purpose of establishing an inducement for debtors to pay their obligations to the U.S. Government.

To any federal agency where the debtor is employed or receiving some type of payment from that agency for the purpose of collecting debts owed the U.S. Government by non-centralized offset. Non-centralized offset encompasses an offset program administered by any federal agency other than the U.S. Department of the Treasury. The agency holding the payment subject to offset will use the indebtedness information for collection purposes after counseling the debtor. The collection may be accomplished either voluntarily or involuntarily by initiating administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, as amended by Pub. L. 104–134, the Debt Collection Improvement Act of 1996).

To the U.S. Department of Treasury (DOT) for centralized administrative or salary offset, including the offset of federal income tax refunds, for the purpose of collecting debts owed the U.S. Government; to the DOT-contracted private collection agencies for the purpose of obtaining collection services, including administrative wage garnishment (AWG) in accordance with the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), 31 U.S.C. 3720D, and 31 CFR part 285, to recover moneys owed to the U.S. Government.

To any federal agency for the purpose of accomplishing the administrative procedures to collect or dispose of a debt owed to the U.S. Government. This includes, but is not limited to, the Office of Personnel Management for personnel management functions and the Internal Revenue Service to obtain a mailing address of a taxpayer for the purpose of locating such taxpayer to collect or compromise a federal claim against the taxpayer pursuant to 26 U.S.C. 1603(m)(2), and in accordance with 31 U.S.C. 3711, 3217, and 3718. The Internal Revenue Service may also request locator service for delinquent accounts receivable in order to report closed out accounts as taxable income, including amounts compromised or terminated, and accounts barred from litigation due to age.

The DOD ''Blanket Routine Uses'' also apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (14 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government; typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper in file folders.

RETRIEVABILITY:

Records are retrieved by the debtor's name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in controlled facilities where physical entry is restricted by the use of locks, guards, and/or to authorized personnel only. Access to records is limited to person(s) responsible for servicing the records in the performance of their official duties and who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after final action is terminated.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Accounting Operations Branch, Financial Services and Accounting Division, Office of Comptroller, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2745, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the HQ DLA Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: HQ DLA–GC (FOIA/Privacy), 8725 John J. Kingman Road, Stop 1644, Fort Belvior, VA 22060–6221 or to the appropriate DLA Field Activity. Official mailing

addresses are published as an appendix to DLA's compilation of systems of records notices.

Requests should include the individual's full Social Security Number, address, and a telephone number where they may be reached.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the HQ DLA Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: HQ DLA–GC (FOIA/Privacy), 8725 John J. Kingman Road, Stop 1644, Fort Belvior, VA 22060–6221 or to the appropriate DLA Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Requests should include the individual's full Social Security Number, address, and a telephone number where they may be reached.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the HQ DLA Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: HQ DLA–GC (FOIA/Privacy), 8725 John J. Kingman Road, Stop 1644, Fort Belvior, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Individual debtor, DLA Financial Services Offices documents, and/or personnel offices) and documents from other federal agencies for which DLA has assumed collection responsibility.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 6, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E7–22252 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of Secretary

[DOD–2007–0S–0120]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on December 14, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 5, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA: 07–0004

SYSTEM NAME:

Secure Facilities Repository Records.

SYSTEM LOCATION:

Defense Intelligence Agency, 200 MacDill Boulevard, Washington, DC 20340–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DIA Civilian Employees, DIA Contractors, Military and DoD Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name and Social Security Number (SSN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 10 U.S.C. 113, 44 U.S.C. 3102, Departmental Regulation; DoD 5200.2R, Personnel Security Programs; DCI Directive 6–4, Personnel Standards and Procedures for access to Special Compartmented Information; DIA Manual 50–8, Personnel Security Program; DIA Manual 50–14, Security Investigations, and E.O. 9397 (SSN).

PURPOSE(S):

To process and track the current and historical facility records of secure facilities and other government agencies processing sensitive information. Additional functions include the processing and generation of DIA Firearms Program Weapons Cards and the maintenance of DIA personnel training records for those who receive training from the Security Education and Awareness Branch.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of guards, locks and administrative procedures. Automated records are password controlled and reside on a secure network with security enhancing features to restrict access to personnel responsible for servicing the records in the performance of their official duties and who are properly screened and cleared for a need-to-know.

RETENTION AND DISPOSAL:

Records are temporary and are deleted when no longer required for current operations.

SYSTEM MANAGER(S) TITLE AND ADDRESS:

Chief, Security Operations Division, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the

DIA Freedom of Information Act (FOIA) Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd., Washington DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the DIA Freedom of Information Act (FOIA) Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd., Washington DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 5400.001 ''Defense Intelligence Agency Privacy Program.''

RECORD SOURCE CATEGORIES:

Individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–22256 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0121]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service, DOD.

ACTION: Notice To Add a New System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 14, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–6045.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 5, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated December 12, 2000, 65 FR 239.

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7330a

SYSTEM NAME:

Salary Offset Reporting System (SORS).

SYSTEM LOCATION:

Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, Cleveland, OH 44199–8006.

Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249–0150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD employees that include Active, Reserve, National Guard, and Retired military members, DoD civilian employees, and civilian employees of other non-DoD Federal agencies such as the Department of Energy, the Department of Health and Human Services, the Environmental Protection Agency, the Broadcasting Board of Governors, and the Department of Veterans Affairs for which DFAS provides e-payroll processing services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), delinquent debt balances, collection amounts, and duty status of individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Debt Collection Improvement Act of 1996; 5 U.S.C. 301, Departmental Regulations; 5 U.S.C. Chapter 53, 55, and 81; 31 U.S.C. 3716; 31 CFR Part 285, 5 CFR Part 550, 26 U.S.C. 6331(h) and 6103(k)6, and E.O. 9397 (SSN).

PURPOSE(S):

A Web based system which provides for the collection, processing, and reporting of salary offsets for DoD employees who have incurred delinquent debts with non-DoD entities. It will centralize the management of the salary offset process established by the Debt Collection Improvement Act of 1996 for debts owed to the Federal Government by individuals receiving a federal salary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To individuals authorized to act as a guardian, trustee, or other legal representative of an Active, Reserve, National Guard, or Retired military member, or civilian employee.

To Department of Health and Human Services, Department of Energy, Department of Veterans Affairs, the Environmental Protection Agency, and the Broadcasting Board of Governors for which DFAS provides e-payroll services for the purpose of informing the affected employees and resolving payroll issues.

To the U.S. Department of the Treasury for use in the collection of debts for the Treasury Offset Program.

To the Internal Revenue Service for use in the collection of debts for the Treasury Offset Program.

The DoD ''Blanket Routine Uses'' published at the beginning of the DoD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by

passwords, which are changed according to agency security policy.

RETENTION AND DISPOSAL:

Records may be temporary in nature and destroyed when actions are completed, they are superseded, obsolete, or no longer needed. Other records may be cut off at the end of the payroll year, and destroyed up to 6 years and 3 months after cutoff. Records are destroyed by degaussing, shredding, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Salary Offset Manager, Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, Cleveland, OH 44199–8006.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Requests should contain individual's full name, Social Security Number (SSN), current address, telephone number, and provide a reasonable description of what the requestor is seeking.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Requests should contain individual's full name, Social Security Number (SSN), current address, telephone number, and provide a reasonable description of what the requestor is seeking.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

RECORD SOURCE CATEGORIES:

From the individual concerned, Department of Defense Components, Federal agencies owed debts, and from electronic interfaces with the Department of Treasury.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–22257 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0123]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on December 14, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Freedom of Information Division, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, OSD/JS Privacy Act Coordinator, (703) 696–4495.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on November 2, 2007, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPR 35

SYSTEM NAME:

Defense Injury and Unemployment Compensation System.

SYSTEM LOCATION:

Civilian Personnel Management Services (CPMS) 1400 Key Blvd., Rosslyn, VA 22209–5144.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Defense (DoD) civilian appropriated fund employees. Employees and/or their survivors who have filed a claim for workers' compensation benefits under the Federal Employees' Compensation Act (FECA) by reason of injuries sustained while in the performance of civilian duty or who have filed claims for Unemployment Compensation through state employment security agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), date of birth, component, occupation, assignment and duty location information, wages, benefits, entitlement data necessary to injury or unemployment claim management, Department of Labor/Office of Workers' Compensation Programs (DOL/OWCP) claim data, authorization for medical care, related DoD personnel records such as timekeeping and payroll data, reports descriptive of the incident and extent of injury for use in DOL/OWCP adjudication of the claim, initial notification to agency Safety personnel for Occupational Safety and Health Act (OSHA) reporting purposes, and reports related to payment of benefits through State Employment Security Agency (SESA) offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8101, Federal Employee Compensation Act, as amended; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; Department of Defense Directive 1400.25–M, DoD Civilian Personnel Management System; and E.O. 9397(SSN).

PURPOSE(S):

For processing Federal Employee Compensation Act claims seeking monetary, medical, and similar benefits for injuries or deaths sustained by civilian employees while performing assigned duties.

Data is collected for incident notification to safety personnel responsible for Occupational Safety and Health Act (OSHA) recording. Safety claim records are used to support DoD management responsibilities under the applicable regulations and to obtain appropriate injury compensation benefits for qualifying employees or their dependents.

Records are maintained for the purpose of auditing the State itemized listings of Unemployment Compensation charges, identifying erroneous charges and requesting credits from the State Employment Security Agencies (SESAs), and tracking the charges to ensure that credits are received from the appropriate State jurisdictions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To agency employees tasked with management of the Federal Employee Compensation Act claims, for the purpose of billing verification, administration of the agency's responsibilities under Federal Employees Compensation Act, answer questions about the status of the claim, or to consider rehire, retention or other actions the agency may be required to take with regard to the claim.

To the Office of Personnel Management (OPM) and Social Security Administration (SSA) for purposes of ensuring appropriate payment of benefits.

The DoD ''Blanket Routine Uses'' apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Individual's name, Social Security Number (SSN), and/or claim number.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for a need-to-know. Access to computerized data is restricted by passwords, which are changed periodically according to agency security policy.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule).

SYSTEM MANAGER(S) AND ADDRESS:

Human Resources Specialist, Benefits and Information Systems, Civilian Personnel Management Services (CPMS), Injury and Unemployment Compensation Division, 1400 Key Blvd., Rosslyn, VA 22209–5144.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Injury Compensation Program Administrator (ICPA) designated by their servicing Human Resources office, or contact the Benefits and Information Systems, Civilian Personnel Management Services (CPMS), Injury Compensation Unemployment Compensation (ICUC) Division, 1400 Key Boulevard, Rosslyn, VA 22209–5144 for assistance in identifying the ICPA.

Requests should be signed, include the individual's full name, Social Security Number (SSN), and address. It should include the State where the claim for Unemployment Compensation was filed and approximate date filed with the State Employment Security Agency.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to their servicing Human Resources office, or contact the Benefits and Information Systems, Civilian Personnel Management Services (CPMS), Injury Compensation Unemployment Compensation (ICUC) Division, 1400 Key Boulevard, Rosslyn, VA 22209–5144 for assistance in identifying the correct office.

Requests should be signed, include the individual's full name, Social Security Number (SSN), and address. It should include the State where the claim for Unemployment Compensation was filed and approximate date filed with the State Employment Security Agency.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, Department of Defense Personnel System records, and Department of Labor/Office of Workers' Compensation Program claim records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–22258 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0122]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service, DOD.

ACTION: Notice to Add a New System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to establish a new system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 14, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–6045.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 5, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated December 12, 2000, 65 FR 239.

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7225a

SYSTEM NAME:

Computerized Accounts Payable System (CAPS).

SYSTEM LOCATION:

Defense Finance and Accounting Service (DFAS), Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249–5005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commercial vendors, independent or industrial government contractors, Army Reserve, National Guard, military academy cadets, Army Reserve Officer Training Corps (ROTC) students, and DoD civilian personnel paid by appropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial records of commercial vendors, government contractors, name, Social Security Number (SSN) or Tax Identification Number, addresses, electronic fund transfer data such as bank routing number, account number, and bank addresses, invoice or claim information submitted for payment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, Department of Defense Financial Management Regulation (DoDFMR) 7000.14.R, Vol. 10; 31 U.S.C. Sections 3512, and 3513; and E.O. 9397 (SSN).

PURPOSE(S):

This system will be used to automate manual functions in the accounts payable offices such as: Automatically suspense commercial payments and follow-up letters, provide payment computations, produce vouchers and management reports, compute the payment due date, interest penalties and determine lost discounts, allow for entry and processing of purchase rates, purchase orders/contracts, and determine foreign currency rates, and maintain the Electronic fund transfer information for vendors whose contracts specify this type of payment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal Reserve banks to distribute payments made through the direct deposit system to financial organizations or their processing agents authorized by individuals to receive and deposit payments in their accounts.

To the U.S. Department of Treasury (DOT) to validate and make payments on public vouchers submitted for purchases and services.

The DoD ''Blanket Routine Uses'' apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Individual name, Social Security Number (SSN), tax identification number, contract number, invoice and payment number, Commercial and Government Entity (CAGE) and Dun and Bradstreet number (DUNS).

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties, and who are properly screened and cleared for a need-to-know. Passwords and digital signatures are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access.

RETENTION AND DISPOSAL:

Transaction records may be temporary in nature and deleted when actions are completed, superseded, obsolete, or no longer needed. Other records may be cut off at the completion of the contract or payment and destroyed 6 years and 3 months after cutoff. Records are destroyed by degaussing, shredding, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Finance and Accounting Service, Indianapolis, Computerized Accounts Payable System Manager, 8899 East 56th Street, Indianapolis, IN 46249–5005.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

Individuals should furnish full name, Social Security Number, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications Legislative Liaison, 6760 E. Irvington Place, Denver, CO 80279–8000.

RECORD SOURCE CATEGORIES:

From the individual concerned, and DoD Components.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–22259 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0124]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Office of the Secretary of Defense is to amend a system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 14, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall at (703) 696–3243.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 7, 2007.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

DPR 32

Employer Support of the Guard and Reserves Ombudsman and Outreach Programs (April 14, 2006, 71 FR 19486).

CHANGES:

* * * * *

SYSTEM LOCATION:

Add to the entry ''The Office of Secretary of Defense, Chief Information Officer, 1500 Defense Pentagon, RM 3A1080, Washington DC 20301–1500.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name, Social Security Number (SSN), home address, phone number, branch of service, and assigned military unit, case numbers, problem/resolution codes, e-mail address, National Disaster Medical System member's employer, as well as, phone number and, if applicable, employer point-of-contact, and nature of employment/reemployment conflict, and any notes and documentation prepared as a consequence of assisting the service member.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Individual's name, Company's name, zip codes, case numbers, problems/resolution codes, and/or e-mail address.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Information Technology Director, National Committee, Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Arlington VA 22209–2133.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Privacy Act Officer, National Committee, Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Arlington VA 22209–2133.

Requests should include the individual's name, address, telephone number, military unit and branch of service or National Disaster Medical System member's employer data, and a brief description of the problem and date of occurrence.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Privacy Act Officer, National Committee, Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Arlington VA 22209–2133.

Requests should include the individual's name, address, telephone number, military unit and branch of service or the National Disaster Medical System member's employer data, and a brief description of the problem and date of occurrence.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''The individual, the employer, and the Defense Manpower Data Center's personnel record systems.

* * * * *

DPR 32

SYSTEM NAME:

Employer Support of the Guard and Reserve Ombudsman and Outreach Programs.

SYSTEM LOCATION:

The Office of Secretary of Defense, Chief Information Officer, 1500 Defense Pentagon, RM 3A1080, Washington DC 20301–1500.

Oracle On-Demand Advanced Data Center, Austin, TX 78753–2663.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Armed Forces, to include Reserve and National Guard personnel, and members of the National Disaster Medical System (NDMS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), home address, phone number, branch of service, and assigned military unit, case numbers, problem/resolution codes, e-mail address, National Disaster Medical System member's employer, as well as, phone number and, if applicable, employer point-of-contact, and nature of employment/reemployment conflict, and any notes and documentation prepared as a consequence of assisting the service member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. Chapter 43, Employment and Reemployment Rights of Members of the Uniformed Services; 42 U.S.C. 300hh–11(e)(3)(A), Employment and Reemployment Rights; DoD Instruction 1205.22, Employer Support of the Guard and Reserve; DoD Instruction 1205.12, Civilian Employment and Reemployment Rights of Applicants for, and Service Members and Former Service Members of the Uniformed Services; and DoD Directive 1250.1, National Committee for Employer Support of the Guard and Reserve.

PURPOSE(S):

The purpose of the system is to support the Employer Support of the Guard and Reserve (ESGR) Ombudsman and Outreach Program in providing assistance to service members and members of the National Disaster Medical System in resolving employment-reemployment conflicts and to provide information to employers regarding the requirements of the Uniform Services Employment and Reemployment Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, and local governmental agencies, as well as to private employers, in furtherance of informal mediation efforts to resolve employment-reemployment conflicts.

To the Department of Labor and the Department of Justice for investigation of, and possible litigation involving, potential violations of the Uniformed Services Employment and Reemployment Rights Act.

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices do not apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper file folders and electronic storage media.

RETRIEVABILITY:

Individual's name, Company, zip codes, case numbers, problems/resolution codes, and/or e-mail address.

SAFEGUARDS:

Access to personal information will be maintained in a secure, password protected electronic system that will utilize security hardware and software to include: Multiple firewalls, active intruder detection, and role-based access controls. Paper records will be maintained in a controlled facility where physical entry is restricted by the use of locks, guards, or administrative procedures. Access to records is limited to those officials who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

The Office of Secretary of Defense, Chief Information Officer, 1500 Defense Pentagon, RM 3A1080, Washington DC 20301–1500.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Privacy Act Officer, National Committee, Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Arlington VA 22209–2133.

Requests should include the individual's name, address, telephone number, military unit and branch of service or the National Disaster Medical System member's employer data, and a brief description of the problem and date of occurrence.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Privacy Act Officer, National Committee, Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Arlington VA 22209–2133.

Requests should include the individual's name, address, telephone number, military unit and branch of service or the National Disaster Medical System member's employer data, and a brief description of the problem and date of occurrence.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual, the employer, and the Defense Manpower Data Center's personnel record systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–22260 Filed 11–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Partially Closed Meeting of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Naval Research Advisory Committee (NRAC) will meet to discuss information classified at the SECRET level from government organizations and proprietary information from commercial organizations. With the exception of two unclassified sessions on December 12, 2007 from 2 p.m. to 3 p.m. and from 3 p.m. to 4 p.m., all other sessions on December 11, 2007 and December 12, 2007 will include discussions involving proprietary information regarding technology applications and systems under development in the private sector between competing companies and/or information classified at the SECRET level that is devoted to intelligence briefings; emerging threats posed by potential adversaries; the exploitation of physical vulnerabilities; the tactical applications of known and emerging technologies; an assessment of the emerging concepts in such areas as: Training, S&T funding allocation, technology monitoring, progress assessments, and probable time frames for transformation and implementation; the challenges raised with the utilization and fielding of various technology applications; and a security briefing that will discuss security policies and procedures, and counterintelligence information classified at the SECRET level.

DATES: The Winter Meetings will be held on Tuesday, December 11, 2007 and Wednesday, December 12, 2007. The open sessions of the meeting will be held on Wednesday, December 12, 2007, from 2 p.m. to 3 p.m. and from 3 p.m. to 4 p.m. The closed sessions will be held all day on Tuesday, December 11, 2007, and on Wednesday, December 12, 2007, from 8 a.m. to 2 p.m. and 4 p.m. to 4:15 p.m.

ADDRESSES: The meeting will be held at the Headquarters, Office of Naval Research, 875 North Randolph Street, Arlington, VA 22203–1995.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Ellis, Jr., Program Director, Naval Research Advisory Committee, 875 North Randolph Street, Arlington, VA 22203–1995; telephone: 703–696–5775.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meeting will be devoted to executive sessions that will include discussions and technical examination of information related to the application of research and development to current and projected Navy and Marine Corps issues. Classified briefings from the Assistant Secretary of the Navy (Research, Development and Acquisition) and high level Navy and Marine Corps officers are scheduled to provide candid assessments of threats, countermeasures and current and projected issues. These briefings and discussions will contain proprietary information and classified information that is specifically authorized under criteria established by Executive Order to be kept Secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The proprietary, classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening these sessions of the meeting. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that these sessions of the meetings be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and (4).

Dated: November 8, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–22200 Filed 11–13–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects—Rate Order No. WAPA–134

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Order Concerning Power Rates.

SUMMARY: The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–134 and Rate Schedule L–F7, placing firm electric service rates from the Loveland Area Projects (LAP) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expenses, and repay power investment and irrigation aid within the allowable periods.

DATES: Rate Schedule L–F7 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after January 1, 2008, and will be in effect until FERC confirms, approves, and places the provisional rates into effect on a final basis ending December 31, 2012, or until the rate schedule is superseded.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Keselburg, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO, 80538–8986, telephone (970) 461–7201, or Mrs. Sheila D. Cook, Rates Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO, 80538–8986, telephone (970) 461–7211, e-mail *scook@wapa.gov.*

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved existing Rate Schedule L–F6 for LAP firm electric service on an interim basis on November 9, 2005 [1]. The existing rate schedule is effective from January 1, 2006, through December 31, 2010.

The LAP firm power rates must be increased due to the economic impact of the drought, increased operation and maintenance and other annual expenses, increased investments, and increased interest expense associated with drought induced deficits. Additionally, under Rate Schedule L–F7, Western will identify its firm electric revenue requirement using a Base component (Base) and a Drought Adder component (Drought Adder).

The existing firm electric service Rate Schedule L–F6 is being superseded by Rate Schedule L–F7. Under the current Rate Schedule L–F6, a two-step method was approved. The composite rate for the second step of Rate Schedule L–F6, effective on January 1, 2007, is 27.36 mills per kilowatthour (mills/kWh), the firm energy rate is 13.68 mills/kWh and the firm capacity rate is $3.59 per kilowattmonth (kWmonth). Under Rate Schedule L–F7, the provisional rates for LAP firm electric services will result in a combined composite rate of 32.42 mills/kWh. The energy rate will be 16.21 mills/kWh (a Base component of 11.92 mills/kWh and a Drought Adder component of 4.29 mills/kWh) and the capacity rate will be $4.25/kWmonth (a Base component of $3.13/kWmonth and a Drought Adder component of $1.12/kWmonth). This will result in an increase of 18.5 percent when compared with the existing LAP firm power rate under Rate Schedule L–F6.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00 and 00–001.00C, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–134 and the proposed LAP firm electric service rates into effect on an interim basis. The new Rate Schedule L–F7 will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: November 1, 2007.

Clay Sell,

Deputy Secretary of Energy.

Department of Energy; Deputy Secretary

In the matter of: Western Area Power Administration Rate Adjustment for the Loveland Area Projects: Order Confirming, Approving, and Placing the Loveland Area Projects Firm Electric Service Rates Into Effect on an Interim Basis

Rate Order No. WAPA–134]

These rates for Loveland Area Projects firm electric service were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other Acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.

Base: Revenue requirement component of the power rate including annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts.

[1] Rate Order No. WAPA–125, November 9, 2005 (70 FR 71273). It was confirmed and approved by FERC on a final basis on June 14, 2006, in Docket No. EF06–5181–000 (115 FERC ¶ 62276).

Capacity charge: The rate which sets forth the charges for capacity. It is expressed in dollars per kWmonth.
Composite rate: The rate for commercial firm power which is the total annual revenue requirement for capacity and energy divided by the total annual firm energy sales under contract. It is expressed in mills per kilowatthour and used for comparison purposes.
Criteria: The Post–1989 General Power Marketing and Allocation Criteria for the sale of energy with capacity from the Pick-Sloan Missouri Basin Program—Western Division and the Fryingpan-Arkansas Project.
Customer: An entity with a contract for and receiving firm electric service from Western's Rocky Mountain Region.
Deficits: Deferred or unrecovered annual expenses.
DOE Order RA 6120.2: An order outlining power marketing administration financial reporting and rate-making procedures.
Drought Adder: Formula-based revenue requirement component including costs associated with the drought.
Energy: Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.
Energy charge: The rate which sets forth the charges for energy. It is expressed in mills per kilowatthour and applied to each kilowatthour delivered to each customer.
FERC: Federal Energy Regulatory Commission.
Firm: A type of product and/or service that is available at the time requested by the customer.
FRN: **Federal Register** notice.
Fry-Ark: Fryingpan-Arkansas Project.
FY: Fiscal year; October 1 to September 30.
kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.
kWmonth: Kilowattmonth—the electrical unit of the monthly amount of capacity.
kWh: Kilowatthour—the electrical unit of energy that equals 1,000 watts in 1 hour.
LAP: Loveland Area Projects.
L–F6: Loveland Area Projects existing firm electric service rate schedule (expires December 31, 2010, or until superseded).
L–F7: Loveland Area Projects provisional firm electric service rate schedule (effective January 1, 2008).
M&I: Municipal and industrial water development.
MW: Megawatt—the electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.
Mills/kWh: Mills per kilowatthour—the unit of charge for energy (equals one tenth of a cent or one thousandth of a dollar).
NEPA: National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).
Non-timing purchases: Power purchases that are not related to operational constraints such as management of endangered species, species habitat, water quality, navigation, and control area purposes.
O&M: Operation and Maintenance.
P–SMBP: The Pick-Sloan Missouri Basin Program.
P–SMBP—WD: Pick-Sloan Missouri Basin Program—Western Division.
Power: Capacity and energy.
Preference: The requirements of Reclamation Law which provide that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).
Provisional Rates: Rates which have been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary.
PRS: Power Repayment Study.
Rate brochure: A June 2007 document prepared for public distribution explaining the rationale and background of the rate proposal contained in this rate order.
Ratesetting PRS: The PRS used for the rate adjustment proposal.
Reclamation: United States Department of the Interior, Bureau of Reclamation.
Reclamation Law: A series of Federal laws. Viewed as a whole, these laws create the originating framework under which Western markets power.
Regions: Western's Rocky Mountain and Upper Great Plains Customer Service Regional Offices.
Revenue Requirement: The revenue required to recover annual expenses (such as O&M, purchase power, transmission service expenses, interest, and deferred expenses) and repay Federal investments, and other assigned costs.
Timing purchases: Power purchases that are due to operational constraints (e.g., management of endangered species habitat, water quality, navigation, control area purposes, etc.) and are not associated with the drought.
Rocky Mountain Region: The Rocky Mountain Customer Service Region of Western.
Western: United States Department of Energy, Western Area Power Administration.

Effective Date

The new provisional rates will take effect on the first day of the first full billing period beginning on or after January 1, 2008, and will be in effect until December 31, 2012, pending approval by FERC on a final basis.

Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process were:

1. The proposed rate adjustment was initiated on March 19, 2007, when Western's Rocky Mountain Region mailed a notice announcing an informal customer meeting to discuss the proposed firm electric service rate adjustment to all LAP preference customers and interested parties. The informal meeting was held on April 9, 2007, in Denver, Colorado. At this informal meeting, Western explained the rationale for the rate adjustment, presented rate designs and methodologies, and answered questions.

2. A FRN was published on May 31, 2007 (72 FR 30370), officially announcing the proposed LAP rates, initiating the public consultation and comment period, and announcing the public information and public comment forums.

3. On May 31, 2007, Western's Rocky Mountain Region mailed letters to all LAP preference customers and interested parties transmitting a copy of the FRN published on May 31, 2007.

4. The public information forum was held on June 18, 2007, beginning at 10 a.m. MDT, in Denver, Colorado. Western provided detailed explanations of the proposed LAP rates, provided a list of issues that could change the proposed rates, and answered questions. A rate brochure detailing the proposed rates was provided at the forum.

5. The public comment forum was held on July 23, 2007, beginning at 10 a.m. MDT, in Denver, Colorado. Western gave the public an opportunity to comment for the record. No oral comments were made and no written comments were received during the comment forum.

6. Western's Rocky Mountain Region provided a Web site with all of the letters, time frames, dates and locations of forums, documents discussed at the information meetings, FRNs, rate brochure, and all other information about this rate process for customer access. The Web site is located at *http://www.wapa.gov/rm/ratesRM/2008RatesAdjustment—FirmPower.htm*

7. Western received 7 comment letters during the consultation and comment period, which ended August 29, 2007. All formally submitted comments have been considered in preparing this Rate Order.

Comments

Written comments were received from the following organizations:

Lower Yellowstone Rural Electric Association, Inc., Montana
Municipal Energy Agency of Nebraska, Nebraska
Mid-West Electric Consumers Association, Colorado
Woodbury County Rural Electric Cooperative, Iowa
Nebraska Public Power District, Nebraska
Town of Julesburg, Colorado
City of Gering, Nebraska

Project Descriptions

Loveland Area Projects

The Post–1989 General Power Marketing and Allocation Criteria, published in the **Federal Register** on January 31, 1986 (51 FR 4012), integrated the resources of the P–SMBP—WD and Fry-Ark. This operational and contractual integration, known as LAP, allowed an increase in marketable resource, simplified contract administration, and established a blended rate for LAP power sales.

The P–SMBP—WD and Fry-Ark retain separate financial status. For this reason, separate PRSs are prepared annually for each project. These PRSs are used to determine the sufficiency of the power rate to generate adequate revenue to repay project investment and costs during each project's prescribed repayment period. The revenue requirement of the Fry-Ark PRS is combined with the P–SMBP—WD revenue requirement derived from the P–SMBP PRS, to develop one rate for LAP firm electric sales.

Pick-Sloan Missouri Basin Program—Western Division

The initial stages of the Missouri River Basin Project were authorized by Congress in section 9 of the Flood Control Act of December 22, 1944, commonly referred to as the 1944 Flood Control Act (Pub. L. 78–534, 58 Stat. 877, 891). The Missouri River Basin Project, later renamed the Pick-Sloan Missouri Basin Program to honor its two principal authors, has been under construction since 1944. The P–SMBP encompasses a comprehensive program of flood control, navigation improvement, irrigation, M&I water development, and hydroelectric production for the entire Missouri River Basin. Multipurpose projects have been developed on the Missouri River and its tributaries in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

The Colorado-Big Thompson, Kendrick, Riverton, and Shoshone projects were administratively combined with P–SMBP in 1954, followed by the North Platte Project in 1959. These projects are known as the ''Integrated Projects'' of the P–SMBP. The Riverton Project was reauthorized as a unit of the P–SMBP in 1970.

The P–SMBP—WD and the Integrated Projects include 19 powerplants. There are six powerplants in the P–SMBP—WD: Glendo, Kortes, and Fremont Canyon powerplants on the North Platte River; Boysen and Pilot Butte on the Wind River; and Yellowtail powerplant on the Big Horn River.

In the Colorado-Big Thompson Project, there are also six powerplants. Green Mountain powerplant on the Blue River is on the West Slope of the Rocky Mountains. Marys Lake, Estes, Pole Hill, Flatiron, and Big Thompson powerplants are on the East Slope.

The Kendrick Project has two power production facilities: Alcova and Seminoe powerplants. Power production facilities in the Shoshone Project are Shoshone, Buffalo Bill, Heart Mountain, and Spirit Mountain powerplants. The only production facility in the North Platte Project is the Guernsey powerplant.

Fryingpan-Arkansas Project

The Fry-Ark is a transmountain diversion development in southeastern Colorado authorized by the Act of Congress on August 16, 1962 (Pub. L. 87–590, 76 Stat. 389, as amended by Title XI of the Act of Congress on October 27, 1974 (Pub. L. 93–493, 88 Stat. 1486, 1497)). The Fry-Ark diverts water from the Fryingpan River and other tributaries of the Roaring Fork River in the Colorado River Basin on the West Slope of the Rocky Mountains to the Arkansas River on the East Slope. The water diverted from the West Slope, together with regulated Arkansas River water, provides supplemental irrigation, M&I water supplies, and produces hydroelectric power. Flood control, fish and wildlife enhancement, and recreation are other important purposes of Fry-Ark. The only generating facility in Fry-Ark is the Mt. Elbert Pumped-Storage powerplant on the East Slope.

Power Repayment Studies—Firm Electric Service Rate

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the LAP revenues. Repayment criteria are based on law, policies, including DOE Order RA 6120.2, and authorizing legislation. To meet cost recovery criteria outlined in DOE Order RA 6120.2, revised studies and rate adjustments have been developed to demonstrate that sufficient revenues will be collected to meet future obligations.

Under this adjustment, payments toward irrigation assistance and capital debt are necessary before deficits are completely repaid. Traditionally, prepayment of irrigation assistance or capital is only done in the absence of deficits. However, if all revenue were applied toward deficits prior to making any payments for irrigation and other capital requirements, an extraordinarily large rate increase to meet single-year repayment obligations would be required. Once these single-year repayment obligations were satisfied, another rate adjustment would be necessary to decrease the rates. While repayment of capital debt and irrigation assistance prior to complete repayment of deficits is not typical, the approach approved within this Rate Order is well within the bounds of the discretion allowed under DOE Order RA 6120.2.

Under this adjustment, Rate Schedule L–F7, Western will repay deficits and also make previously planned payments for irrigation assistance and other investments that are due within the required repayment period. Prepaying irrigation and capital investments has been part of the P-SMBP repayment plans and approved rate adjustments for the past 20 years. Prepayment is an integral part of the long-term plan for the project and has provided rate stability for consumers while meeting Federal repayment obligations. Modest irrigation and investment payments for a brief period of 2 to 3 years will reduce the single-year revenue requirement for irrigation assistance and hold increases to the ''lowest possible rates to consumers consistent with sound business principles,'' as outlined in section 5 of the Flood Control Act of 1944.

Existing and Provisional Rates

A comparison of the existing and provisional rates for LAP firm electric service follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES LAP FIRM ELECTRIC SERVICE

Firm electric service	Existing rate (January 1, 2007) L–F6	Provisional rate (January 1, 2008) L–F7	Percent change
LAP revenue requirement	$55.8 million	$66.1 million	18.5
LAP composite rate	27.36 mills/kWh	32.42 mills/kWh	18.5
Firm energy	13.68 mills/kWh	16.21 mills/kWh	18.5
Firm capacity	$3.59/kWmonth	$4.25/kWmonth	18.4

The adjustment to the P–SMBP revenue requirement is a separate formal rate process which is documented in Rate Order No. WAPA–135. Rate Order No. WAPA–135 is also scheduled to go into effect on the first day of the first full billing period beginning on or after January 1, 2008.

Certification of Rates

Western's Administrator certified that the provisional rates for LAP firm electric service under Rate Schedule L–F7 are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

LAP Firm Electric Service Rate Discussion

According to Reclamation Law, Western must establish power rates sufficient to recover operation, maintenance, purchase power and interest expenses, and repay power investment and irrigation aid.

The Criteria, published in the **Federal Register** on January 31, 1986 (51 FR 4012), operationally and contractually integrated the resources of the P–SMBP—WD and Fry-Ark (thereafter referred to as LAP). A blended rate was established for the sale of LAP power. The P–SMBP—WD portion of the revenue requirement for the LAP firm electric service rates was developed from the revenue requirement calculated in the P–SMBP Ratesetting PRS. The P–SMBP—WD revenue requirement increased approximately 23 percent from the previous revenue requirement due to the economic impact of the drought, increased O&M and other annual expenses, increased investments, and increased interest expenses associated with the deficits. The revenue requirements for P–SMBP—WD are as follows:

SUMMARY OF P–SMBP—WD REVENUE REQUIREMENTS ($000)

Present Revenue Requirement (Jan 07) (21.09 mills/kWh × 1,988,000,000 kWh)	$41,927
Provisional Increase (Jan 08) (4.95 mills/kWh × 1,988,000,000 kWh)	9,840
Provisional Revenue Requirement (21.09 + 4.95 = 26.04 mills/kWh × 1,988,000,000 kWh)	51,767

The Fry-Ark piece of the revenue requirement for the LAP firm electric service rates was developed from the revenue requirement calculated in the Fry-Ark Ratesetting PRS, which has been updated to reflect the most current information. The Fry-Ark revenue requirement increased approximately 3 percent due to increased O&M expenses and the economic impact of the drought. The revenue requirements for Fry-Ark are as follows:

SUMMARY OF FRY-ARK REVENUE REQUIREMENTS ($000)

Present Revenue Requirement (Jan 07)	$13,901
Provisional Increase (Jan 08)	$464
Provisional Revenue Requirement	$14,365

This table compares the LAP existing revenue requirements to the proposed revenue requirements:

SUMMARY OF LAP REVENUE REQUIREMENTS ($000)

	Existing (January 2007)	Provisional (January 2008)
P–SMBP—WD	$41,927	$51,767
Fry-Ark	$13,901	$14,365
Total LAP	$55,828	$66,132

Western will identify its firm electric service revenue requirement using Base and Drought Adder components. The Base is a revenue requirement for each Project that includes annual O&M expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs. Normal timing power purchases are purchases due to operational constraints (e.g., management of endangered species habitat, water quality, navigation, control area purposes, etc.) and are not associated with the current drought in the Regions. The Base revenue requirement may not be adjusted without Western going through a public process to do so.

The Drought Adder revenue requirement for each Project is a formula-based revenue requirement that includes costs attributable to the present drought conditions within the Regions. The Drought Adder includes costs associated with future non-timing purchases of additional power to firm obligations not covered with available system generation due to the drought, previously incurred deficits due to purchased power debt that resulted from non-timing power purchases made during this drought, and the interest associated with the previously incurred and future drought debt. The Drought Adder is designed to repay the drought debt within 10 years from the time the debt was incurred. Adjustments to the Drought Adder of less than or equal to the equivalent of 2 mills/kWh to the LAP composite rate will be made by customer notification of a revised rate schedule with a January implementation date.

The annual revenue requirement calculation can be summarized by the

following formula: Annual Revenue Requirement = Base Revenue Requirement + Drought Adder Revenue Requirement. Under this provisional rate, the LAP annual revenue requirement equals $66.1 million and is comprised of a Base revenue requirement of $48.6 million plus a Drought Adder revenue requirement of $17.5 million.

Below is a table identifying the rates for the revenue requirement components:

SUMMARY OF LAP COMPONENTS

	Firm energy	Firm capacity
Base	11.92 mills/kWh	$3.13/kWmonth.
Drought Adder	4.29 mills/kWh	1.12/kWmonth.
Total LAP	16.21 mills/kWh	4.25/kWmonth.

Western reviews its firm electric service rates annually. Western will review the Base after the annual PRS is completed, generally in the first quarter of the calendar year. If an adjustment to the Base is necessary, Western will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

Western will review the Drought Adder each September to determine if drought costs differ from those projected in the PRS and whether an adjustment to the Drought Adder is necessary. Western will use recent Corps of Engineers and Bureau of Reclamation hydrological estimates and historical data to determine the estimated amounts for future purchase power costs. For any adjustments attributed to drought costs of less than or equal to the equivalent of 2 mills/kWh to the LAP composite rate, Western will notify customers by letter in October of the planned adjustment and implement the adjustment in the following January billing cycle. For the portion of any planned incremental adjustment greater than the equivalent of 2 mills/kWh to the LAP composite rate, Western will engage in a public process pursuant to 10 CFR part 903 prior to implementing that portion of the adjustment. Although decremental adjustments to the Drought Adder will occur, the adjustment cannot result in the Drought Adder being a negative number. Western will conduct a preliminary review of the Drought Adder in early summer and advise customers by letter of any estimated change to the Drought Adder for the following January. Customers will also be notified by letter in October of the final Drought Adder adjustment to be effective with the following January billing period.

Statement of Revenue and Related Expenses

The following table provides a summary of projected revenue and expense data for the Fry-Ark firm electric service revenue requirement through the 5-year provisional rate approval period:

FRY-ARK COMPARISON OF 5-YEAR RATE APPROVAL PERIOD (FY 2008–2012)

[Total Revenue and Expense ($000)]

	Existing rate	Provisional rate	Difference
Total Revenues	$74,638	$78,683	$4,045
Revenue Distribution:.			
Expenses:.			
O&M	23,190	25,236	2,046
Purchase Power and Transmission	20,435	21,260	825
Interest	23,926	22,287	−1,639
Total Expenses	67,551	68,783	1,232
Principal Payments:.			
Capitalized Expenses	$0	$0	$0
Original Project and Additions	940	578	−362
Replacements	6,147	9,322	3,175
Total Principal Payments	7,087	9,900	2,813
Total Revenue Distribution	74,638	78,683	4,045

The summary of P–SMBP—WD revenues and expenses for the 5-year provisional rate approval period is included in the P–SMBP Statement of Revenue and Related Expenses that is part of Rate Order No. WAPA–135.

Basis for Rate Development

The existing rates for LAP firm electric service in Rate Schedule L–F6, which expire on December 31, 2010, no longer provide sufficient revenues to pay all annual costs, including interest expense, and repay power investment and irrigation aid within the allowable period. The adjusted rates reflect increases primarily due to the economic impact of the drought, increased O&M and other annual expenses, increased investments, and increased interest expenses associated with deficits. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid within the allowable periods. The provisional rates will take effect on January 1, 2008, to correspond with the start of the calendar year, and will remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis, through December 31, 2012.

The provisional LAP firm electric service rates are designed to recover 50 percent of the revenue requirement from the capacity charge and 50 percent from the energy charge. The capacity charge is calculated by dividing 50 percent of the total annual revenue requirement by the number of billing units (kWmonth)

in a year. The energy charge is calculated by dividing 50 percent of the total annual revenue requirement by the annual energy sales under contract.

Comments

The comments and responses applicable to the LAP firm electric service rates, paraphrased for brevity when not affecting the meaning of the statement(s), are discussed below. Comments that apply to P–SMBP or to P–SMBP—Eastern Division only are being answered in Rate Order No. WAPA–135.

A. *Comment*: Western received numerous comments that strongly supported Western's rate adjustment proposal. These comments support the establishment of a Drought Adder and Base component as it will ensure timely repayment of obligations to the Treasury while insulating the Base from inflation by drought related costs.

Response: Western appreciates the customer support it has received for the rate adjustment proposal, including separation of the annual revenue requirement into a Base component and a Drought Adder component.

B. *Comment*: Western received several comments encouraging Western to keep preference customers informed throughout the year on the progress made in paying down the drought deficits and provide early and timely information to customers on any changes to the Drought Adder so customers can plan accordingly.

Response: Western intends to inform customers annually of the status of the drought costs and the repayment of those costs. It is Western's intention to include the most current hydrological and operations cost data into projections in the PRS as soon as they are available and will notify customers as soon as practical of any changes to the Drought Adder.

C. *Comment*: Western received comments encouraging Western to include identification of the portion of the total rate which will be attributed to the Drought Adder and that such amount be identified in terms of both the energy and capacity rates.

Response: Western agrees with this request to identify the portion of the rate attributable to the Drought Adder and have shown both the Base component and Drought Adder component in energy and capacity rates in the rate schedule.

D. *Comment*: Customers would like to work with Western on how the Drought Adder would be administered in future droughts.

Response: Western is committed to working with its customers, now and in the future, to determine ways to control costs and repay the projects.

Availability of Information

Information about this rate adjustment, including PRSs, comments, letters, memorandums, and other supporting material made or kept by Western that was used to develop the provisional rates, is available for public review in the Rocky Mountain Customer Service Regional Office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, Colorado.

Ratemaking Procedure Requirements:

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021, Subpart D, APP. B4.3), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The provisional rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective January 1, 2008, Rate Schedule L–F7 for the Loveland Area Projects of the Western Area Power Administration. The rate schedule shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis through December 31, 2012.

Dated: November 1, 2007.

Clay Sell,
Deputy Secretary of Energy.

United States Department of Energy; Western Area Power Administration

Loveland Area Projects: Colorado, Kansas, Nebraska, Wyoming

Schedule of Rates for Firm Electric Service: (Approved Under Rate Order No. WAPA–134)

Effective: Beginning on the first day of the first full billing period on or after January 1, 2008, through December 31, 2012.

Available: Within the marketing area served by the Loveland Area Projects.

Applicable: To the wholesale power customers for firm power service supplied through one meter at one point of delivery, or as otherwise established by contract.

Character: Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rates:

Capacity Charge: $4.25 per kilowattmonth of billing capacity.

Energy Charge: 16.21 mills per kilowatthour (kWh) of use.

Billing Capacity: Unless otherwise specified by contract, the billing capacity will be the seasonal contract rate of delivery.

Charge Components: Base: A fixed revenue requirement that includes operation and maintenance expense, investments and replacements, interest on investments and replacements, normal timing purchase power costs (purchases due to operational constraints, not associated with drought), and transmission costs. The Base revenue requirement is $48.6 million.

$$\text{Base Capacity} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Firm Billing Capacity}} = \$3.13/\text{kWmonth}$$

$$\text{Base Energy} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Annual Energy}} = 11.92 \text{ mills/kWh}$$

Drought Adder: A formula-based revenue requirement that includes future purchase power expenses excluding timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For this period, effective January 2008, the Drought Adder revenue requirement is $17.5 million.

$$\text{Drought Adder Capacity} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Firm Billing Capacity}} = \$1.12/\text{kWmonth}$$

$$\text{Drought Adder Energy} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Annual Energy}} = 4.29 \text{ mills/kWh}$$

Process: Any proposed change to the Base component will require a public process.

The Drought Adder may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the LAP composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the LAP composite rate will require a public process.

Adjustments:

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

For Transformer Losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor: None. The customer will be required to maintain a power factor at all points of measurement between 95-percent lagging and 95-percent leading.

[FR Doc. E7–22191 Filed 11–13–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division—Rate Order No. WAPA–135

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Order Concerning Power Rates.

SUMMARY: The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–135 and Rate Schedules P–SED–F9 and P–SED–FP9, placing firm power and firm peaking power rates from the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP—ED) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid within the allowable periods.

DATES: Rate Schedules P–SED–F9 and P–SED–FP9 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after January 1, 2008, and will be in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis ending December 31, 2012, or until the rate schedules are superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7405, e-mail *rharris@wapa.gov*, or Mr. Jon R. Horst, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7444, e-mail *horst@wapa.gov*.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved existing Rate Schedules P–SED–F8 and P–SED–FP8 for firm and firm peaking electric service on an interim basis on November 9, 2005.[1] The existing rate schedules are effective from January 1, 2006, through December 31, 2010.

The P–SMBP—ED firm power and firm peaking power rates must be increased due to the economic impact of the drought, increased operation and maintenance and other annual expenses, increased investments, and increased interest expense associated with drought induced deficits. Additionally, under Rate Schedules P–SED–F9 and P–SED–FP9, Western will identify its firm electric and firm peaking service revenue requirements using a Base component (Base) and a Drought Adder component (Drought Adder). Under Rate Schedule P–SED–F9, Western will also eliminate the tiered rate in P–SMBP—ED.

The existing firm electric service Rate Schedules P–SED–F8 and P–SED–FP8 are being superseded by Rate Schedules P–SED–F9 and P–SED–FP9. Under current Rate Schedules P–SED–F8 and P–SED–FP8, a two-step method was approved. The composite rate for the second step of Rate Schedules P–SED–F8 and P–SED–FP8, effective on January 1, 2007, is 19.54 mills per kilowatt hour (mills/kWh), the firm energy rate is 11.29 mills/kWh, the firm capacity rate is $4.45 per kilowatt month (kWmonth) and the firm peaking capacity rate is $4.45 per kWmonth. Under Rate Schedule P–SED–F9, the provisional rates for firm electric services will result in a combined composite rate of 24.49 mills/kWh. The energy rate will be 13.99 mills/kWh (a Base component of 8.93 mills/kWh and a Drought Adder component of 5.06 mills/kWh) and the capacity rate will be $5.65 kWmonth (a Base component of $3.65/kWmonth and a Drought Adder component of $2.00/kWmonth). This will result in an increase of 25.3 percent when compared with the existing firm power rate under Rate Schedule P–SED–F8. Under Rate Schedule P–SED–FP9 the provisional

[1] Rate Order No. WAPA–125, November 9, 2005 (70 FR 71280). It was confirmed and approved by FERC on a final basis on June 14, 2006, in Docket No. EF06–5181–000 (115 FERC ¶ 62276).

rates for firm peaking power consist of a capacity charge of $5.10 per kWmonth and an energy charge of 13.99 mills/kWh, effective on January 1, 2008. This will result in an increase of 14.6 percent when compared with the existing firm peaking power rate under Rate Schedule P–SED–FP8.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00 and 00–001.00C, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–135, the proposed P–SMBP—ED firm power and firm peaking power rates, into effect on an interim basis. The new Rate Schedules P–SED–F9 and P–SED–FP9 will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: November 1, 2007.

Clay Sell,

Deputy Secretary of Energy.

Department of Energy, Deputy Secretary

[Rate Order No. WAPA–135]

In the matter of: Western Area Power Administration Rate Adjustment for the Pick-Sloan Missouri Basin Program—Eastern Division

Order Confirming, Approving, and Placing the Pick-Sloan Missouri Basin Program—Eastern Division Firm Power and Firm Peaking Power Service Rates Into Effect on an Interim Basis

These rates for the Pick-Sloan Missouri Basin Program—Eastern Division were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s) and other Acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.

Base: Revenue requirement component of the power rate including annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts.

Capacity Charge: The rate which sets forth the charges for capacity. It is expressed in dollars per kWmonth.

Composite Rate: The rate for commercial firm power which is the total annual revenue requirement for capacity and energy divided by the total annual energy sales. It is expressed in mills per kilowatthour and used for comparison purposes.

Corps: United States Army Corps of Engineers.

CROD: Contract rate of delivery. The maximum amount of capacity made available to a preference customer for a period specified under a contract.

Customer: An entity with a contract that is receiving service from Western's Upper Great Plains Region.

Deficits: Deferred or unrecovered annual expenses.

DOE: United States Department of Energy.

DOE Order RA 6120.2: An order outlining power marketing administration financial reporting and rate-making procedures.

Drought Adder: Formula based revenue requirement component including costs associated with the drought.

Energy: Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.

Energy Charge: The rate which sets forth the charges for energy. It is expressed in mills per kilowatthour and applied to each kilowatthour delivered to each customer.

FERC: Federal Energy Regulatory Commission.

Firm: A type of product and/or service available at the time requested by the customer.

FRN: **Federal Register** notice.

Fry-Ark: Fryingpan-Arkansas Project.

FY: Fiscal year; October 1 to September 30.

kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.

kWh: Kilowatthour—the electrical unit of energy that equals 1,000 watts in 1 hour.

kWmonth: Kilowattmonth—the electrical unit of the monthly amount of capacity.

LAP: Loveland Area Projects.

Load Factor: The ratio of average load in kW supplied during a designated period to the peak or maximum load in kW occurring in that period.

mills/kWh: Mills per kilowatthour—the unit of charge for energy (equal to one tenth of a cent or one thousandth of a dollar.)

MW: Megawatt—the electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.

NEPA: National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

Non-timing Power Purchases: Power purchases that are not related to operational constraints such as management of endangered species, species habitat, water quality, navigation, control area purposes, etc.

O&M: Operation and Maintenance.

P–SMBP: The Pick-Sloan Missouri Basin Program.

P–SMBP—ED: Pick-Sloan Missouri Basin Program—Eastern Division.

P–SMBP—WD: Pick-Sloan Missouri Basin Program—Western Division.

Power: Capacity and energy.

Power Factor: The ratio of real to apparent power at any given point and time in an electrical circuit. Generally it is expressed as a percentage ratio.

Preference: The requirements of Reclamation Law which provide that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).

Provisional Rate: A rate which has been confirmed, approved and placed into

effect on an interim basis by the Deputy Secretary.

PRS: Power Repayment Study.

Rate Brochure: A June 2007 document explaining the rationale and background for the rate proposal contained in this Rate Order.

Reclamation: United States Department of the Interior, Bureau of Reclamation.

Reclamation Law: A series of Federal laws. Viewed as a whole, these laws create the originating framework under which Western markets power.

Revenue Requirement: The revenue required to recover annual expenses (such as O&M, purchase power, transmission service expenses, interest and deferred expenses) and repay Federal investments and other assigned costs.

RMR: The Rocky Mountain Customer Service Region of Western.

Timing Power Purchases: Power purchases that are due to operational constraints (e.g. management of endangered species, species habitat, water quality, navigation, control area purposes, etc.) and not associated with the drought.

UGPR: The Upper Great Plains Customer Service Region of Western.

Western: United States Department of Energy, Western Area Power Administration.

Effective Date

The new provisional rates will take effect on the first day of the first full billing period beginning on or after January 1, 2008, and will remain in effect until December 31, 2012, pending approval by FERC on a final basis.

Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process were:

1. The proposed rate adjustment process began March 15, 2007, when Western's UGPR mailed a notice announcing informal customer meetings to all P–SMBP—ED preference customers and interested parties. The informal meetings were held on April 9, 2007, in Denver, Colorado, and on April 10, 2007, in Sioux Falls, South Dakota. At these informal meetings, Western explained the rationale for the rate adjustment, presented rate designs and methodologies, and answered questions.

2. An FRN was published on May 31, 2007 (72 FR 30372), that announced the proposed rates for P–SMBP—ED, began a public consultation and comment period, and announced the public information and public comment forums.

3. On June 1, 2007, Western's UGPR mailed letters to all P–SMBP—ED preference customers and interested parties transmitting the FRN published on May 31, 2007.

4. On June 18, 2007, beginning at 10 a.m. (MDT), Western held a public information forum at the Radisson Stapleton Plaza in Denver, Colorado. On June 19, 2007, beginning at 9 a.m. (CDT), a second public information forum was held at the Holiday Inn in Sioux Falls, South Dakota. Western provided detailed explanations of the proposed rates for P–SMBP—ED, and a list of issues that could change the proposed rates. Western also answered questions and gave notice that more information was available in the rate brochure.

5. On July 23, 2007, beginning at 10 a.m. (MDT), Western held a public comment forum at the Radisson Stapleton Plaza in Denver, Colorado, to give the public an opportunity to comment for the record. No oral or written comments were received at this forum. On July 24, 2007, beginning at 9 a.m. (CDT), a second public comment forum was held at the Holiday Inn in Sioux Falls, South Dakota, to give the public an opportunity to comment for the record. No oral or written comments were received at this forum.

6. Western's UGPR provided a Web site with all of the letters, time frames, dates and locations of forums, documents discussed at the information meetings, FRNs, rate brochure, and all other information about this rate process for easy customer access. The Web site is located at *http://www.wapa.gov/ugp/rates/2008FirmRateAdjust.*

7. Western received 25 comment letters during the consultation and comment period, which ended August 29, 2007. All formally submitted comments have been considered in preparing this Rate Order.

Comments

Written comments were received from the following organizations:

City of Gering, Nebraska.
City of Wisner, Nebraska.
Central Power Electric Cooperative, Inc., North Dakota.
Corn Belt Power Cooperative, Iowa.
East River Electric Power Cooperative, South Dakota.
Federated Rural Electric, Minnesota.
Heartland Consumers Power District, South Dakota.
Lincoln Electric System, Nebraska.
Lower Yellowstone Rural Electric Cooperative, Montana.
Lyon-Lincoln Electric Cooperative, Minnesota.
Marshall Municipal Utilities, Minnesota.
Mid-West Electric Consumers Association, Colorado.
Minnkota Power Cooperative, Inc., North Dakota.
Montana Electric Cooperatives' Association, Montana.
Municipal Energy Agency of Nebraska, Nebraska.
Nebraska Public Power District, Nebraska.
Northwest Iowa Power Cooperative, Iowa.
Renville Sibley Cooperative Power Association, Minnesota.
Rosebud Electric Cooperative, South Dakota.
Sioux Valley Energy, South Dakota.
Sisseton-Wahpeton Oyate, Lake Traverse Reservation, South Dakota.
South Dakota Rural Electric Association, South Dakota.
Town of Julesburg, Colorado.
Verendrye Electric Cooperative, North Dakota.
Woodbury Rural Electric Cooperative, Iowa.

Project Description

The P–SMBP was authorized by Congress in section 9 of the Flood Control Act of December 22, 1944, commonly referred to as the 1944 Flood Control Act. This multipurpose program provides flood control, irrigation, navigation, recreation, preservation and enhancement of fish and wildlife, and power generation. Multipurpose projects have been developed on the Missouri River and its tributaries in Colorado, Montana, Nebraska, North Dakota, South Dakota and Wyoming.

In addition to the multipurpose water projects authorized by section 9 of the Flood Control Act of 1944, certain other existing projects have been integrated with the P–SMBP for power marketing, operation and repayment purposes. The Colorado-Big Thompson, Kendrick, and Shoshone Projects were combined with the P–SMBP in 1954, followed by the North Platte Project in 1959. These projects are referred to as the ''Integrated Projects'' of the P–SMBP.

The Flood Control Act of 1944 also authorized the inclusion of the Fort Peck Project with the P–SMBP for operation and repayment purposes. The Riverton Project was integrated with the P–SMBP in 1954, and in 1970 was reauthorized as a unit of P–SMBP.

The P–SMBP is administered by two regions. The UGPR with a regional office in Billings, Montana, markets power from the Eastern Division of P–SMBP, and the RMR with a regional

office in Loveland, Colorado, markets the Western Division power of P–SMBP. The UGPR markets power in western Iowa, western Minnesota, Montana east of the Continental Divide, North Dakota, South Dakota, and the eastern two-thirds of Nebraska. The RMR markets P–SMBP—WD power, which in combination with Fry-Ark power is known as LAP power, in northeastern Colorado, east of the Continental Divide in Wyoming, west of the 101st meridian in Nebraska, and most of Kansas. The P–SMBP power is marketed to approximately 300 firm power customers by the UGPR and approximately 40 firm power customers by the RMR.

Power Repayment Study—Firm Power Rate

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the P–SMBP. Repayment criteria are based on law, policies including DOE Order RA 6120.2, and authorizing legislation. To meet cost recovery criteria outlined in DOE Order RA 6120.2, a revised study and rate adjustment has been developed to demonstrate that sufficient revenues will be collected under proposed rates to meet future obligations.

Under this adjustment, payments toward irrigation assistance and capital debt are necessary before deficits are completely repaid. Traditionally, prepayment of irrigation assistance or capital is only done in the absence of deficits. However, if all revenue were applied toward deficits prior to making any payments for irrigation and other capital requirements, an extraordinarily large rate increase to meet single-year repayment obligations would be required. Once these single-year repayment obligations were satisfied, another rate adjustment would be necessary to decrease the rates. While repayment of capital debt and irrigation assistance prior to complete repayment of deficits is not typical, the approach approved within this Rate Order is well within the bounds of the discretion allowed under DOE Order RA 6120.2.

Under the adjustment in power rate schedules P–SED–F9 and P–SED–FP9, Western will repay deficits and also make previously planned payments for irrigation assistance and other investments that are due within the required repayment period. Prepaying irrigation and capital investments has been part of the P–SMBP repayment plans and approved rate adjustments for the past 20 years. Prepayment is an integral part of the long-term plan for the project and has provided rate stability for consumers while meeting Federal repayment obligations. Modest irrigation and investment payments for a brief period of 2 to 3 years will reduce the single-year revenue requirement for irrigation assistance and hold increases to the ''lowest possible rates to consumers consistent with sound business principles,'' as outlined in section 5 of the Flood Control Act of 1944.

Existing and Provisional Rates

A comparison of the existing and provisional firm power and firm peaking power rates follow:

Comparison of Existing and Provisional Rates

PICK-SLOAN MISSOURI BASIN PROGRAM—EASTERN DIVISION

Firm electric service	Existing rates effective January 1, 2007	Provisional rates effective January 1, 2008	Percent change
P–SMBP—ED Revenue Requirement	$189.9 million	$235.9 million	24.2
P–SMBP—ED Composite Rate	19.54 mills/kWh	24.49 mills/kWh	25.3
Firm Capacity	$4.45/kWmonth	$5.65/kWmonth	27.0
Firm Energy	11.29 mills/kWh	13.99 mills/kWh	23.9
Tiered > 60 Percent Load Factor	5.21 mills/kWh	Eliminated	N/A
Firm Peaking Capacity	$4.45/kWmonth	$5.10/kWmonth	14.6
Firm Peaking Energy [1]	11.29 mills/kWh	13.99 mills/kWh	23.9

[1] Firm Peaking Energy is normally returned. This rate will be assessed in the event Firm Peaking Energy is not returned.

Western Division

The LAP rate is designed to recover the P–SMBP—WD revenue requirement for the P–SMBP and the revenue requirement for Fry-Ark. The adjustment to the LAP rate is a separate formal rate process which is documented in Rate Order No. WAPA–134. Rate Order No. WAPA–134 is also scheduled to go into effect on the first day of the first full billing period beginning on January 1, 2008.

Certification of Rates

Western's Administrator certified that the provisional rates for P–SMBP—ED firm power and firm peaking power rates are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

P–SMBP—ED Firm Power Rate Discussion

According to Reclamation Law, Western must establish power rates sufficient to recover operation, maintenance, purchased power and interest expenses, and repay power investment and irrigation aid.

The P–SMBP—ED firm power and firm peaking power rates must be increased due to the economic impact of the drought, increased O&M and other annual expenses, increased investments, and increased interest expense associated with deficits.

The existing rates for P–SMBP—ED firm power and firm peaking power under Rate Schedules P–SED–F8 and P–SED–FP8 expire December 31, 2010. Effective January 1, 2008, Rate Schedules P–SED–F8 and P–SED–FP8 will be superseded by the new rates in Rate Schedule P–SED–F9 and Rate Schedule P–SED–FP9. The provisional rates under P–SED–F9 for firm power consist of a capacity charge of $5.65/kWmonth, and an energy charge of 13.99 mills/kWh. The provisional rates under P–SED–FP9 for firm peaking power consist of a capacity of $5.10/kWmonth, and an energy charge of 13.99 mills/kWh. These rates are comprised of Base and Drought Adder components.

Additionally, under Rate Schedules P–SED–F9 and P–SED–FP9, Western will identify its firm and firm peaking electric service revenue requirements using Base and Drought Adder components. The Base is a revenue requirement that includes annual O&M expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs. Normal timing power purchases are purchases due to operational constraints (e.g., management of endangered species habitat, water

quality, navigation, control area purposes, etc.) and are not associated with the current drought in the region. The Base revenue requirement may not be adjusted without Western going through a public process to do so.

The Drought Adder revenue requirement is a formula-based revenue requirement that includes costs attributable to the present drought conditions within the P–SMBP. The Drought Adder includes costs associated with future non-timing power purchases of additional power to firm obligations not covered with available system generation due to the drought, previously incurred deficits due to purchased power debt incurred from non-timing power purchases made during this drought, and the interest associated with previously incurred and future drought debt. The Drought Adder is designed to repay drought debt within 10 years of the year the debt was incurred. Adjustments to the Drought Adder of less than or equal to the equivalent of 2 mills/kWh to the PRS composite rate will be made by customer notification of a revised rate schedule with a January implementation date.

The annual revenue requirement calculation can be summarized by the following formula: Annual Revenue Requirement = Base Revenue Requirement + Drought Adder Revenue Requirement. Under this provisional rate, the P–SMBP—ED annual revenue requirement equals $245.2 million and is comprised of a Base revenue requirement of $157.2 million plus a Drought Adder revenue requirement of $88.0 million. Both the Base and the Drought Adder recover portions of the firm power revenue requirement, which when combined with the firm peaking power revenue requirement equals the P–SMBP—ED annual revenue requirement.

Below is a table identifying the rates for the revenue requirement components:

Service	Base component	Drought adder component	Rates
Firm Capacity ($/kWmonth)	$3.65	$2.00	$5.65
Firm Energy (mills/kWh)	8.93	5.06	13.99
Firm Peaking Capacity ($/kWmonth)	$3.25	$1.85	$5.10
Firm Peaking Energy (mills/kWh) [1]	8.93	5.06	13.99

[1] Firm Peaking Energy is normally returned. This rate will be assessed in the event Firm Peaking Energy is not returned.

Western reviews its firm electric service rates annually. Western will review the Base after the annual PRS is completed, generally in the first quarter of the calendar year. If an adjustment to the Base is necessary, Western will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

Western will review the Drought Adder each September to determine if drought costs differ from those projected in the PRS and whether an adjustment to the Drought Adder is necessary. Western will use recent Corps of Engineers and Bureau of Reclamation hydrological estimates and historical data to determine the estimated amounts for future purchase power costs. For any adjustments attributed to drought costs of less than or equal to the equivalent of 2 mills/kWh to the PRS composite rate, Western will notify customers by letter in October of the planned adjustment and implement the adjustment in the following January billing cycle. For the portion of any planned incremental adjustment greater than the equivalent of 2 mills/kWh to the PRS composite rate, Western will engage in a public process pursuant to 10 CFR part 903 prior to implementing that portion of the adjustment. Although decremental adjustments to the Drought Adder may occur, the adjustment cannot result in the Drought Adder being a negative number. Western will conduct a preliminary review of the Drought Adder in early summer and advise customers by letter of any estimated change to the Drought Adder for the following January. Customers will also be notified by letter in October of the final Drought Adder adjustment to be effective with the following January billing period.

Western has also redesigned its revenue recovery methodology for firm peaking service. Under Rate Schedule P–SED–FP9, the firm peaking demand charge is calculated by dividing one-half of the P–SMBP—ED revenue requirement by the sum of the total allocated seasonal CRODs modeled as monthly billing units for both firm electric and firm peaking service.

Statement of Revenue and Related Expenses

The following table provides a summary of projected revenue and expense data for the total P–SMBP, including both the Eastern and Western Divisions, firm electric service revenue requirement through the 5-year rate approval period. The firm power rates for both divisions have been developed with the following revenues and expenses for the P–SMBP:

TOTAL P–SMBP FIRM POWER COMPARISON OF 5-YEAR RATE PERIOD (FY 2008–2012)

	Existing rate ($000)	Proposed rate ($000)	Difference ($000) Total revenues and expenses
Total Revenues	$1,723,061	$2,127,445	$404,384
Revenue Distribution			
Expenses:			
O&M	829,319	910,948	81,629
Purchased Power and Wheeling	84,040	290,654	206,614
Integrated Projects Requirements	0	0	0
Interest	499,116	530,912	31,796
Transmission	58,956	60,856	1,900

TOTAL P–SMBP FIRM POWER COMPARISON OF 5-YEAR RATE PERIOD (FY 2008–2012)—Continued

	Existing rate ($000)	Proposed rate ($000)	Difference ($000) Total revenues and expenses
Total Expenses	1,471,431	1,793,370	321,939
Principal Payments:			
Capitalized Expenses	218,819	127,958	(90,861)
Original Project and Additions	26,392	188,898	162,506
Replacements	2,019	2,219	200
Irrigation	4,400	15,000	10,600
Total Principal Payments	251,630	334,075	82,445
Total Revenue Distribution	1,723,061	2,127,445	404,384

Basis for Rate Development

The existing rates for P–SMBP—ED firm power in Rate Schedule P–SED–F8, which expire December 31, 2010, no longer provide sufficient revenues to pay all annual costs, including interest expense, and repay investment and irrigation aid within the allowable period. The adjusted rates reflect increases due to the economic impact of the drought, increased O&M and other annual expenses, increased investments, and increased interest expense associated with drought deficits. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay power investment and irrigation aid within the allowable periods. The provisional rates will take effect on January 1, 2008, to correspond with the start of the calendar year, and will remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis, through December 31, 2012.

The P–SMBP—ED provisional firm power rate under rate schedule P–SED–F9 is designed to recover 50 percent of the revenue requirement from the capacity rate and 50 percent from the energy rate. The firm capacity rate of $5.65 per kWmonth is calculated by dividing 50 percent of the total annual revenue by the total firm power billing units (kWmonths) in a year. The firm energy rate of 13.99 mills/kWh is calculated by dividing 50 percent of the total annual revenue requirement by the annual energy sales.

Historically, the P–SMBP—ED firm peaking rate has been equal to the demand charge for the firm power rate. The customer pays the demand rate on their total firm peaking CROD each month rather than firm energy peaking delivered each month. Contract terms vary among firm peaking customers with respect to return of peaking energy. One customer may return all peaking energy, while another peaking customer may pay for 20 to 40 percent of the peaking energy they use and return the rest to Western. When a peaking customer does not return peaking energy, they are billed at the firm energy rate.

Previously, Western used the sum of the metered billing units for firm electric service and the seasonal CROD modeled as monthly billing units for firm peaking service. Western is changing the methodology for the firm peaking rate design to use the sum of the total allocated seasonal CRODs for both firm electric demand and firm peaking demand modeled as billing units. Changing the methodology is consistent with the principle that Western's rate design for firm electric demand and firm peaking demand should be representative of the different products. The firm peaking rate under P–SED–FP9 is $5.10/kWmonth. The revenue requirement for firm peaking demand is calculated by multiplying the firm peaking power billing units per year (4,272,000 kWmonth/year) by the firm peaking demand rate yielding a firm peaking revenue requirement of $21.8 million.

With this rate adjustment, the P–SMBP—ED is also eliminating the tiered rate. The tiered rate charge was implemented in the mid-1970s for loads in excess of 60 percent monthly load factor. Continuing the tiered rate charge discourages load management. Moreover, eliminating the tiered rate from the P–SMBP—ED firm electric service schedule is consistent with the administration of firm electric service rates in the P–SMBP—WD, as well as all other Western regions, which do not assess a tiered rate charge.

Comments

The comments and responses below regarding the firm power and firm peaking power rates are paraphrased for brevity when not affecting the meaning of the statement(s). Direct quotes from comment letters are used for clarification when necessary.

A. *Comment:* Western received numerous comments that strongly supported Western's rate adjustment proposal. These comments support the establishment of a Drought Adder and Base component as it will ensure timely repayment of obligations to the Treasury while insulating the Base from inflation brought about by drought related costs. Comments expressed support for elimination of the tiered rate because it has penalized customers for making efficient use of renewable energy resources that do not contribute to global warming. Comments also supported the redesign of the peaking rate as it better reflects the value and limitations of the peaking product.

Response: Western appreciates customer support received for the rate adjustment proposal, including separation of the annual revenue requirement into a Base component and Drought Adder component, elimination of the tiered rate and redesign of the peaking rate.

B. *Comment:* Western received one comment opposed to the elimination of the tiered rate. ''It appears to me to be a push put on by those systems with load management systems. They manage their peaks & thus buy more power in the over 60% load factor range. The systems that do not use load control helped pay for the load control systems of those that do & now they are asking us to pay again.''

Response: P–SMBP—ED customers that have load management systems in place have paid for those systems themselves. Western has not recovered costs for load management systems of others nor has Western passed those costs on to customers that do not have load management systems. Western

does not charge a tiered rate in the P–SMBP—WD nor in any other projects marketed by Western. Western endeavors to treat customers fairly and we believe penalizing customers for efficient management is unjust. Furthermore, penalizing customers for managing the load on their power system is unreasonable in an era when use of renewable energy is at the forefront of efficient energy management.

C. *Comment:* Western received one comment opposed to the proposed firm peaking capacity rate and the proposed peaking energy charge. The percentage increase for the firm peaking capacity is only 14.6% compared to the 25.3% increase in firm power. The peaking energy charge of 13.99 mills/kWh seems low.

Response: Those customers who have peaking capacity pay for the service each month of the season for which they have a CROD whether they are allowed to use the capacity under the contract terms or not. Typically, peaking capacity is used one to four times annually by the peaking customers, thus paying monthly for a product they are not allowed to use. Western's new peaking rate is reflective of the peaking customer's historical usage and their impact on drought costs. Western believes we have treated both the firm and firm peaking customers equitably by separating the rate designs of the two products. This separation is demonstrated in the new peaking product rate design which better reflects the value and restrictions of the peaking product.

D. *Comment:* Western received numerous comments encouraging Western to include identification of the portion of the total rate which will be attributed to the Drought Adder and that such amount be identified in terms of both the energy and capacity rates.

Response: Western agrees with this request to identify the portion of the rate attributable to the Drought Adder and has identified both the Base component and Drought Adder component in energy and capacity rates in the firm and firm peaking rate schedules.

E. *Comment:* Western received several comments encouraging Western to keep preference customers informed throughout the year on the progress made in paying down the drought deficits and provide early and timely information to customers on any changes to the Drought Adder so customers can plan accordingly.

Response: Western intends to inform customers annually of the status of the drought costs and the repayment of those costs. It is Western's intention to include the most current hydrological and operations cost data into projections in the PRS as soon as they are available and will notify customers as soon as practical of any changes to the Drought Adder.

F. *Comment:* Many comments supported the increase in rates, recognizing Western's need to generate added revenue in order to meet its operations and repayment obligations due to pressure from the long-term drought affecting the Missouri River Basin.

Response: Western appreciates the customer support it has received for the rate adjustment proposal.

G. *Comment:* Western received one comment that the 25% rate increase for the area utilities should not decrease the Tribal benefits, rather the opposite should happen and Tribal benefits should increase due to the increased value of the hydro resource.

Response: Western does provide bill crediting of the Tribal benefits according to the composite rate for the P–SMBP—ED as provided in the Tribal contracts. Native American contractual arrangements do allow for the composite rate to be modified. Under this rate adjustment, the composite rate for P–SMBP—ED is increasing from 19.54 mills per kWh to 24.49 mills per kWh. Benefits to a Tribe are determined from the difference between the composite rate for Western and the composite rate of the power supplier the Tribe has designated. As Western's composite rate increases, it is likely that the composite rates for the Tribes designated power suppliers will increase as well, although such increase is not within the control of Western. (In addition, this comment pertains to contract administration and is outside the scope of this rate process.)

H. *Comment:* Two comments received expressed appreciation for Western's commitment to supply the full firm power allocation during this drought cycle. However, there is also concern that adequate long term purchase power arrangements have not been pursued by Western, leaving UGPR to continually rely on short-term, spot market energy purchases to meet its shortfall.

Response: Although this comment is not directly related to the proposed rate action and is outside the scope of this rate process, Western is actively addressing these issues as well as other options and evaluating them based on cost and benefit to Western's customers.

I. *Comment:* Commenters state that by relying on non-firm transmission for spot energy purchases, the likelihood of curtailments is increased. It is their understanding that a number of short-term purchases by Western have been curtailed, causing additional drought-related expenses as higher cost energy is generated or purchased to replace the curtailed purchases in real time.

Response: This comment is not directly related to the proposed rate action and is outside the scope of this rate process. However, Western is actively addressing these issues as well as other options and evaluating them based on cost and benefit to Western's customers.

J. *Comment:* Commenters state that one area of controllable cost that causes significant concern is the area of regional transmission. The commenters understand that UGPR is considering the logistics of participating in the Midwest Independent Transmission System Operator (MISO) and its Day Two Markets. Before pursuing such a radical departure from past practice, they suggest a thorough review of costs and benefits to all Western customers. If Western joins MISO, and other area transmission owners that also serve Western customers do not join, there could be significant seams issues. If there are benefits to participating in the Day Two Market, those benefits should flow to all Western customers, not just those that participate in joint dispatching arrangements inside the Integrated System.

Response: This comment is not directly related to the proposed rate action and is outside the scope of this rate process. However, Western is actively addressing these issues as well as other options and evaluating them based on cost and benefit to Western's customers.

Availability of Information

Information about this rate adjustment, including the PRS, comments, letters, memorandums and other supporting material made or kept by Western that was used to develop the provisional rates, is available for public review in the Upper Great Plains Regional Office, Western Area Power Administration, 2900 4th Avenue North, Billings, Montana.

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021, Subpart D, App. B4.3), Western has determined that this action is categorically excluded

from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The provisional rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective January 1, 2008, Rate Schedules P–SED–F9 and P–SED–FP9 for the Pick-Sloan Missouri Basin Program—Eastern Division of the Western Area Power Administration. The rate schedules shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis through December 31, 2012.

Dated: November 1, 2007.

Clay Sell,

Deputy Secretary of Energy.

Rate Schedule P–SED–F9
(Supersedes Schedule P–SED–F8)
Effective January 1, 2008

United States Department of Energy, Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division, Montana, North Dakota, South Dakota, Minnesota, Iowa, Nebraska

Schedule of Rates for Firm Power Service (Approved Under Rate Order No. WAPA–135)

Effective: The first day of the first full billing period beginning on or after January 1, 2008, through December 31, 2012.

Available: Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable: To the power and energy delivered to customers as firm power service.

Character: Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rates:

Demand Charge: $5.65 for each kilowatt per month (kWmonth) of billing demand.

Energy Charge: 13.99 mills per kilowatthour (kWh) for all energy delivered as firm power service.

Billing Demand: The billing demand will be as defined by the power sales contract.

Charge Components:

Base: A fixed revenue requirement that includes operation and maintenance expense, investments and replacements, interest on investments and replacements, normal timing purchase power costs (purchases due to operational constraints, not associated with drought), and transmission costs. The Base revenue requirement is $157.2 million.

$$\text{Base Demand} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Firm Metered Billing Units}} = \$3.65/\text{kWmonth}.$$

$$\text{Base Energy} = \frac{50\% \times \text{Base Revenue Requirement}}{\text{Annual Energy}} = 8.93 \text{ mills/kWh}.$$

Drought Adder: A formula-based revenue requirement that includes future purchase power expense excluding timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For the period beginning January 2008, the Drought Adder revenue requirement is $88 million.

$$\text{Drought Adder Demand} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Firm Metered Billing Units}} = \$2.00/\text{kWmonth}.$$

$$\text{Drought Adder Energy} = \frac{50\% \times \text{Drought Adder Revenue Requirement}}{\text{Annual Energy}} = 5.06 \text{ mills/kWh}.$$

Process: Any proposed change to the Base component will require a public process.

The Drought Adder component may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the Power Repayment Study (PRS) composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the PRS composite rate will require a public process.

Adjustments:

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

For Character and Conditions of Service: Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5 percent discount on demand and energy charges when facilities are provided by the customer that results in a sufficient savings to Western to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in Western.

For Billing of Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at 10 times the above rate.

For Power Factor: None. The customer will be required to maintain a power factor at the point of delivery between 95 percent lagging and 95 percent leading.

Rate Schedule P–SED–FP9
(Supersedes Schedule P–SED–FP8)
Effective January 1, 2008

United States Department of Energy, Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division, Montana, North Dakota, South Dakota, Minnesota, Iowa, Nebraska

Schedule of Rates for Firm Peaking Power Service (Approved Under Rate Order No. WAPA–135)

Effective: The first day of the first full billing period beginning on or after January 1, 2008, through December 31, 2012.

Available: Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program, to customers

with generating resources enabling them to use firm peaking power service.

Applicable: To the power sold to customers as firm peaking power service.

Character: Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rates:

Demand Charge: $5.10 for each kilowatt per month (kWmonth) of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy Charge: 13.99 mills for each kilowatthour (kWh) for all energy scheduled for delivery without return.

Charge Components:

Base: A fixed revenue requirement that includes operation and maintenance expense, investment and replacements, normal timing purchase power costs (purchases due to operational constraints, not associated with drought), and transmission costs. The Base peaking revenue requirement is $13.9 million.

$$\text{Base Demand} = \frac{\text{Base Peaking Demand Revenue Requirement}}{\text{Peaking CROD Billing Units}} = \$3.25/\text{kWmonth}.$$

Energy [1]: = 8.93 mills/kWh.

Drought Adder: A formula-based revenue requirement that includes future purchase power above timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. For the period beginning January 2008, the Drought Adder peaking revenue requirement is $7.9 million.

$$\text{Drought Adder Demand} = \frac{\text{Drought Adder Peaking Demand Revenue Requirement}}{\text{Peaking CROD Billing Units}} = \$1.85/\text{kWmonth}.$$

Energy [1]: = 5.06 mills/kWh.

Process: Any proposed change to the Base component will require a public process.

The Drought Adder component may be adjusted annually using the above formula for any costs attributed to drought of less than or equal to the equivalent of 2 mills/kWh to the Power Repayment Study (PRS) composite rate. Any planned incremental adjustment to the Drought Adder component greater than the equivalent of 2 mills/kWh to the PRS composite rate will require a public process.

Billing Demand: The billing demand will be the greater of: (1) The highest 30-minute integrated demand measured during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Adjustments:

For Drought Adder: Adjustments pursuant to the Drought Adder component will be documented in a revision to this rate schedule.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking demand and/or energy, such overrun shall be billed at 10 times the above rate.

[FR Doc. E7–22192 Filed 11–13–07; 8:45 am]

BILLING CODE 6450–01–P

[1] Firm peaking energy is normally returned. This rate will be assessed in the event firm peaking energy is not returned. This rate is calculated in accordance with the schedule of rates for firm power service, Rate Schedule P–SED–F9 or its successor.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0716; FRL–8144–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; TSCA Section 4 Test Rules, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission; EPA ICR No. 1139.08, OMB Control No. 2070–0033

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled *TSCA Section 4 Test Rules, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission* and identified by EPA ICR No. 1139.08 and OMB Control No. 2070–0033, is scheduled to expire on June 30, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before January 14, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2007–0716, by one of the following methods:

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

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2007–0716. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2007–0716. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Mike Mattheisen, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–3077; fax number: (202) 564–4755; e-mail address: *mattheisen.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it 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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are persons who manufacture, process or import, use, distribute, or dispose of one or more specified chemical substances.

Title: TSCA Section 4 Test Rules, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission.

ICR numbers: EPA ICR No. 1139.08, OMB Control No. 2070-0033.

ICR status: This ICR is currently scheduled to expire on June 30, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 4 of the Toxic Substances Control Act (TSCA) is designed to assure that chemicals that may pose serious risks to human health or the environment undergo testing by manufacturers or processors, and that the results of such testing are made available to EPA. EPA uses the information collected under the authority of TSCA section 4 to assess risks associated with the manufacture, processing, distribution, use, or disposal of a chemical, and to support any necessary regulatory action with respect to that chemical.

EPA must assure that appropriate tests are performed on a chemical if it decides:

1. That a chemical being considered under TSCA section 4(a) may pose an ''unreasonable risk'' or is produced in ''substantial'' quantities that may result in substantial or significant human

exposure or substantial environmental release of the chemical.

2. That additional data are needed to determine or predict the impacts of the chemical's manufacture, processing, distribution, use, or disposal.

3. That testing is needed to develop such data. Rules and consent orders under TSCA section 4 require that one manufacturer or processor of a subject chemical perform the specified testing and report the results of that testing to EPA.

TSCA section 4 also allows a manufacturer or processor of a subject chemical to apply for an exemption from the testing requirement, if that testing will be or has been performed by another party. This information collection applies to reporting and recordkeeping activities associated with the information that EPA requires industry to provide in response to TSCA section 4 test rules, consent orders, test rule exemptions, and other data submissions.

Responses to the collection of information are mandatory (see 40 CFR part 790). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 243 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 58.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 10.4.

Estimated total annual burden hours: 112,590 hours.

Estimated total annual costs: $ 5,662,701. This includes an estimated burden cost of $ 5,662,701 and an estimated cost of $ 0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates from the Last Approval?

There is a net decrease of 90,424 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's revised estimates of the number of test rules and consent orders that the Agency expects to issue in the future, as well as revised estimates of the amount of testing still to be done under EPA's High Production Volume Challenge Program. The supporting statement includes detailed analyses of these revised estimates. This change is an adjustment.

V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 7, 2007.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–22201 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2007–0412; FRL–8494–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Cross-Media Electronic Reporting and Recordkeeping Rule (Renewal); EPA ICR No. 2002.04, OMB Control No. 2025–0003

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 14, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OEI–2007–0412, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, OEI Docket, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Katrail Holloway, Cross-Media Electronic Reporting and Recordkeeping Rule, Information Exchange & Services Division, Office of Environmental Information, 2823T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–2133; fax number: 202–566–1684; e-mail address: *holloway.katrail@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 15, 2007, (72 FR 33216), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no additional comments on the renewal, during the comment period. Any

additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OEI–2007–0412, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Office of Environmental Information Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Cross-Media Electronic Reporting and Recordkeeping Rule (Renewal).

ICR Numbers: EPA ICR Number 2002.04, OMB Control Number 2025–0003.

ICR Status: This ICR is scheduled to expire on November 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The scope of this Information Collection Request will focus on the final electronic reporting components of CROMERRR, which is designed to allow EPA to comply with the Government Paperwork Elimination Act of 1998; to provide a uniform, technology-neutral framework for electronic reporting across all EPA programs; to allow EPA programs to offer electronic reporting as they become ready for CROMERRR; and to provide states with a streamlined process—together with uniform set of criteria—for approval of their electronic reporting provisions for all their EPA-authorized programs. Responses to the collection of information are voluntary. In order to accommodate CBI, the information collected must be in accordance with the confidentiality regulations set forth in 40 CFR Part 2, Subpart B. Additionally, EPA will ensure that the information collection procedures comply with the Privacy Act of 1974 and the OMB Circular 108.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.69 per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and Local Receiving Systems.

Estimated Number of Respondents: 220,826.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 151,963.

Estimated Total Annual Cost: $10,763,740 which includes $4,450,658 annualized Capital Startup Costs, $657,707 annualized Operating and Maintenance (O&M) costs and $5,655,374 annualized Labor Costs.

Changes in the Estimates: There is no significant change in the ICR compared to the previous ICR. This is due to the regulations having not changed over the past three years and is not anticipated to change over the next three years. There is, however, an adjustment in the labor cost estimate. This is due to the inflation of the labor rates over the past three years.

Dated: November 7, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22225 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–1004; FRL–8153–4]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on December 5-7, 2007, in Orlando, FL. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: 1,1,1-trichloroethane; 2-chloroethanol; allyl chloride; boron tribromide; carbonyl fluoride; carbonyl sulfide; chloropicrin; chloropivaloyl chloride; diethyl dichlorosilane; dimethyl chlorosilane; ethyl trichlorosilane; ethylene fluorohydrin; methanesulfonyl chloride; methyl iodide; methyl vinyl dichlorosilane; N,N -dimethylformamide; Nerve Agent VX; stibine; sulfuryl fluoride; tetrachloroethylene; thiophosgene.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m. on December 5, 2007; 8:30 a.m. to 5:30 p.m. on December 6, 2007 and 8 a.m. to 12 p.m. on December 7, 2007.

ADDRESSES: The meeting will be held at the Orlando World Center Marriott Resort & Convention Center, 8701 World Center Drive, Orlando, FL 32821 .

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–1004. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for March 3-5, 2008 in Alexandria, Virgina. The NAC/AEGL Committee is planning to address at the meeting AEGL values for the following chemicals: 1,2-butylene oxide; allyl alcohol; cyanogen; ethyl benzene; ethyl isocyanate; ethyl phosphonothioic dichloride; ethylphosphono dichloridate; germane; isobutyl isocyanate; isopropyl isocyanate; methoxy methyl isocyanate; methyl isothiocyanate; n-butyl isocyanate; nitrogen tetroxide; nitrogen trioxide; n-propyl isocyanate; phenyl isocyanate; t-butyl isocyanate; trifluoroacetyl chloride; trimethylacetyl chloride.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: November 1, 2007.

Wendy C. Hamnett,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. E7–22226 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8494–8]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held November 27–29, 2007 at RESOLVE, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: The CHPAC will meet on Tuesday, November 27th, Wednesday, November 28th, and Thursday, November 29, 2007 at RESOLVE.

ADDRESSES: RESOLVE, 1255 23rd Street, NW., Suite 275 Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn Hubbard, Child and Aging Health Protection Division, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2189, *hubbard.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. The CHPAC plenary will meet on Tuesday November 27th from 1 p.m. to 4:30 p.m., Wednesday November 28th from 9 a.m. to 5:45 p.m., and Thursday, November 29th from 9 a.m. to 12:30 p.m. The Task Group will meet Tuesday, November 27th from 4:45 to 6 p.m. Agenda items include orientation for new CHPAC members, discussion and next steps from the NAAQS for Lead and EPA Framework to Determine a Mutagenic Mode of Action Task Groups, and a presentation on EPA Climate Change Activities. Draft agenda attached.

Access and Accommodations: For information on access or services for individuals with disabilities, please contact Carolyn Hubbard at 202–564–2189 or *hubbard.carolyn@epa.gov.* To request accommodation of a disability, please contact Carolyn Hubbard

preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 8, 2007.

Carolyn Hubbard,

Designated Federal Official.

U.S. Environmental Protection Agency

CHILDREN'S HEALTH PROTECTION ADVISORY COMMITTEE RESOLVE

1255 23rd St, NW. Suite 275, Washington, DC 20037, (202) 944–2300.
November 27–29, 2007.

Draft Agenda

Tuesday, November 27th

CHPAC Plenary Session

1–1:50 Welcome, Member Introductions, and Review of Meeting Agenda
1:50–2 Introduce Acting Office Director and Staff
2–3:15 Orientation to the CHPAC
3:15–3:30 Break
3:30–4:30 EPA Framework to Determine a Mutagenic Mode of Action
4:30 Adjourn Plenary for the Day
4:45–6 Mutagenicity Framework Task Group

Wednesday, November 28, 2007

CHPAC Plenary Session Continued

9–9:10 Check In and Agenda Review
9:10–9:55 Highlights of Recent EPA Activities
9:55–10:10 Break
10:10–11:10 National Ambient Air Quality Standard (NAAQS) for Lead
11:10–12:30 EPA Framework to Determine a Mutagenic Mode of Action
12:30–2:30 LUNCH (on your own)
2:30–3:45 EPA Framework to Determine a Mutagenic Mode of Action
3:45–5:15 Discussion of Children's Environmental Health Issues
5:15–5:45 Public Comment
5:45 Adjourn for the Day

Thursday, November 29, 2007

CHPAC Plenary Session Continued

9–9:05 Check In and Agenda Review
9:05–10 Pediatric Environmental Health Specialty Units (PEHSU) Program
10–10:15 Break
10:15–11 EPA Plans, Policies, and Activities to Address Climate Change
11–12 EPA Framework to Determine a Mutagenic Mode of Action
12–12:20 Near Term CHPAC Priorities
12:20–12:30 Wrap Up/Next Steps
12:30 Adjourn Plenary

[FR Doc. E7–22236 Filed 11–13–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: Grants.Gov–4040–New]

Agency Information Collection Request: 60-Day Public Comment Request

Agency: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 60 days, and directed to the OS Paperwork.

Title: SF–424 Project/Performance Site Location(s)—OMB No. 4040–New—Grants.gov.

Proposed Project: The SF–424 Project/Performance Site Location(s) form is a new form based on the Research & Related Project/Performance Site Location(s) form currently in use with the SF–424 (R&R) family (OMB No. 4040–0001). The new form will be used to meet the requirements of the Federal Funding Accountability and Transparency Act (FFATA) (Pub. L. 109–282). FFATA requires the Office of Management and Budget (OMB) to establish a publicly available, online database containing information about entities that receive Federal grants, loans, and contracts. The new form will assist agencies in collecting a unique recipient entity identification number, a required data element by FFATA. In addition, the form will be implemented as a required form within the following SF–424 4040 collections that have applications for federal assistance and are cleared under the following OMB numbers: 4040–0001 (R&R); OMB No. 4040–0002 (Mandatory); 4040–0003 (Short Organizational); and 4040–0004 (Core).

The form will be optional for the OMB No. 4040–0005 (Individual) collection. All SF–424 forms and data sets support the Federal Grants Streamlining Initiative (Pub. L. 106–107) by establishing consistency among Federal grant making agencies in their data collection processes. The revisions include removal of ''Research & Related'' from the form title and addition of a mandatory DUNS number field in the primary and additional performance location sections. A 3-year clearance is requested. Frequency of data collection varies by Federal agency.

ESTIMATED ANNUALIZED BURDEN TABLE

Agency	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
NSF	34,000	1	10/60	5,667
VA	750	1	20/60	250
USAID	150	2	5/60	25
IMLS	140	3	5/60	35
DOD	2,502	4.88	4/60	814
HHS	76,949	1.2	11/60	16,929
DOI	10,876	7	19/60	24,108
SSA	1,000	2	2/60	67
NEA	5,345	1	5/60	445
DOJ	16,571	1	15/60	4,143
USDA	7,150	1	10/60	1,192
EPA	3,816	4	5/60	1,272

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Agency	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
HUD	9,100	1	30/60	4,550
NASA	1,887	5	15/60	2,359
NARA	125	1.2	10/60	25
NEH	2,500	1.5	15/60	938
DOT	3,400	1	53/60	2,975
Total				65,793

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–22196 Filed 11–13–07; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0279]

Agency Information Collection Request; 60-Day Public Comment Request

Agency: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Institutional Review Board/Independent Ethics Committee Forms Extension—OMB No. 0990–0279—Assistant Secretary for Health, Office of Public Health and Science, Office for Human Research Protections.

Abstract: The Office for Human Research Protections (OHRP) is requesting a three year extension of the Institutional Review Board (IRB) Independent Ethics Committee (IEC) Registration Form designed to provide a simplified procedure for institutions engaged in Department of Health and Human Services (HHS) conducted or supported research to satisfy the assurance requirements of Section 491(a) of the Public Health Service Act and HHS regulations for the protection of human subjects at 45 CFR 46.103. Respondents are institutions or organizations operating IRBs or IECs designated by an institution under an assurance of compliance approved for federal-wide use by OHRP and that review HHS-conducted or supported research. Data is collected as needed.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
IRB/IEC–0279	6,000	2	1	12,000

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–22247 Filed 11–13–07; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0278]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed

information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

Proposed Project: Federal-wide Assurance Forms—Extension—OMB No. 0990–0278—Assistant Secretary for Health, Office of Public Health and Science, Office for Human Research Protections.

Abstract: The Office for Human Research Protections (OHRP) is requesting a three year extension of the Federal-wide Assurance (FWA) forms. The FWA forms were designed to provide a simplified procedure for institutions engaged in HHS-conducted or supported research to satisfy the assurance requirements of Section 49(a) of the Public Health Service Act and HHS Regulations for the protection of human subjects at 45 CFR 46.103. The respondents are institutions engaged in human subjects research that is conducted or supported by HHS. Data is collected as needed.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
FWA 0278	10,000	2	45/60	15,000

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–22248 Filed 11–13–07; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 21st meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: December 5, 2007, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/consumer/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html.*

Dated: November 2, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–5641 Filed 11–13–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 20th meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: December 4, 2007, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthrecords/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on ways to achieve widespread adoption of certified EHRs, minimizing gaps in adoption among providers.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov.healthit/ahic/healthrecords/ehr__instruct.html.*

Dated: November 2, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–5642 Filed 11–13–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Quality Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 13th meeting of the American Health Information Community Quality Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

DATES: December 14, 2007, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/quality/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how health information technology can provide the data needed for the development of quality measures that are useful to patients and others in the health care industry, automate the measurement and reporting of a comprehensive current and future set of quality measures, and accelerate the use of clinical decision support that can

improve performance on those quality measures.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/quality_instruct.html.*

Dated: November 2, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–5643 Filed 11–13–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 72 FR 45430–45433, dated August 14, 2007) is amended to reflect the reorganization of the Office of Enterprise Communication, Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows: Delete in their entirety the functional statements for the *Office of Enterprise Communication (CAU)* and the *Office of the Director (CAU1),* and insert the following:

Office of Enterprise Communication (CAU). The mission of the Office of Enterprise Communication (OEC) is to assure CDC's leadership role in promoting public health and preventing disease by fostering an organizational culture that ensures coordination and prompt response to urgent issues and concerns; anticipates and elevates issues that shape the Agency's position; upholds and safeguards our credibility and confidence of employees, partners, and public; and promotes effective and efficient communication networks and products. To carry out its mission, OEC (1) plans, directs, coordinates, and facilitates communication activities related to policy issues and situations with serious and cross-cutting potential organizational impact; (2) provides leadership, technical assistance, and consultation to the agency's coordinating centers/offices (CC/COs), national centers (NCs), and offices in reputational risk communication and reputational management; (3) provides leadership, technical assistance, and consultation to the agency's CC/COs, NCs, and offices in establishing best business communication practices and strategic principles to maximize effectiveness; (4) conducts environmental scanning to determine emerging threats to the agency's reputation; (5) implements external communication strategies to promote and protect the agency's brand; (6) provides guidance on best practice in internal and external communication; (7) assists the CC/COs, their NCs, and partners in identifying and building needed expertise and state-of-the-art technology, logistical support, and other capacities required for effective external and internal policy/public affairs communication, and media relations; (8) positions the agency to respond quickly, fairly, openly, and honestly to challenges and potential problems; (9) maintains liaison with officials from the Department of Health and Human Services (DHHS), other Federal and state public health agencies, and private sector organizations to coordinate communication programs and strategies of mutual concern; and (10) identifies and promotes the use of the latest information technologies to support and coordinate CDC's enterprise-wide communication efforts throughout the CC/COs.

Office of the Director (CAU1). (1) Ensures CDC communication activities follow policy directions established by DHHS; (2) establishes and interprets policies and determines priorities for communicating the value and benefits of CDC programs; (3) establishes, administers, and coordinates CDC's media relations policies in a manner to ensure that communication efforts reflect the scientific integrity of all CDC research, programs, and activities, and that such information is factual, accurate, and targeted toward improving public health; (4) provides leadership and guidance on developing and implementing external public relations strategies to communicate upward and outward to customers, partners, and other stakeholders; (5) provides leadership and guidance on developing and implementing internal public relations strategies to communicate to the agency's workforce; (6) facilitates coordination throughout the agency to ensure the use of consistent and repetitive messages that achieve awareness and understanding; (7) facilitates coordination throughout the agency to ensure the distribution of messages through the right channels and to the appropriate audience; (8) provides guidance on leadership communication effectiveness; (9) provides leadership in the development and implementation of proactive strategies and practices for effective issue management and public affairs activities; (10) provides leadership and guidance in using efficient and transparent processes to communicate the decision-making activities of CDC's leadership; (11) facilitates the activation of situation-specific teams of experts and specialists to develop and implement communication strategies to respond to and resolve controversial public issues, influence public attitude and perception, and support and promote the business of the agency in a scientific and positive manner; (12) collaborates with stakeholders and partners, responsible for the planning, coordination and management of the Conference Center located in the Global Communications Center (GCC) on the Roybal Campus; manages the infrastructure support for functions within the Scientific Communication Center provided by contract; (13) manages the functions of common used space in the GCC and Building 21, First Floor, on the Roybal Campus; (14) provides conference management support to internal and external customers for meetings held in the GCC and Building 21, First Floor; and (15) creates and maintains liaisons with the CC/CO Enterprise Communication Officers Executive Leadership Board, CDC Foundation, and Emergency Communications System to monitor and respond to issues that are a threat to the business of the agency.

Delete in its entirety the functional statement for the *Management Analysis and Services Office (CAJG)* and insert the following:

Plans, coordinates, and provides CDC-wide management and information services in the following areas: policy development, management and consultation; management studies and surveys; internal controls program; delegations of authorities; organizations and functions; Federal Advisory Committee management; records management; most efficient organization implementation; printing procurement; electronic forms design and management; mail center services and operations; information quality; competitive sourcing; and office automation services and support.

Delete items (4) and (8) of the functional statement for the *Management and Information Services Branch (CAJGC), Management Analysis*

and Services Office (CAJG), and renumber the remaining items accordingly.

Dated: November 5, 2007.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 07–5634 Filed 11–13–07; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology.

Proposed Project: Data Collection Tool for Rural Hospital Flexibility Grant Program: (New)

The mission of the Office of Rural Health Policy (ORHP) is to sustain and improve access to quality care services for rural communities. In its authorizing language (Sec. 711. *[42 U.S.C. 912])*, Congress charged ORHP with ''administer[ing] grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health care in rural areas.''

In accordance with 42 U.S.C. 1820(g)(3)(F), the Health Resources and Services Administration proposes to revise the Rural Hospital Flexibility Grant Program—Guidance and Forms for the Application. The guidance is used annually by 45 States in writing applications for Grants under the Rural Hospital Flexibility Program (Flex) of the Social Security Act, and in preparing the required report.

ORHP seeks to expand the information gathered from Grantees on their use of the grant funds. Flex Grantees would be required to report on the number of Critical Access Hospitals (CAHs), other eligible hospitals, Emergency Medical Service (EMS) providers, or rural health networks they have worked with during the grant period. Areas that can work with the CAHs and eligible hospitals include: Strategic Planning, Board Training, Networking, Benchmarking/Quality Reporting, EMS—Training, Medical Direction, Transfers, and Health Information Technology (HIT) Adoption. During the grant period the grantee can sponsor meetings, seminars, workshops, and/or use other means as appropriate to engage with the hospitals on any of the above subjects or others that are not listed. The Flex grantees would report information on the total number of hospitals or other organizations that participated in any sponsored activities, as well as provide the name of the hospitals and organizations and their addresses.

In addition, ORHP seeks further information on the use of grant funds. Many Flex grantees use sub-contractual agreements to provide direct aid to CAHs, eligible hospitals, rural health networks, EMS providers or other organizations. ORHP will ask each Flex grantee to list all sub-contractual awards made during the grant period, identify the organization which received Flex funding, the amount they received, and the purpose of award. Services provided to CAHs, other hospitals or providers, EMS providers or other entities will be quantified and the value of the service provided will be submitted.

Submission may be made through the use of a spreadsheet attached to the application.

The estimated average annual burden is as follows:

Form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Flex Report	45	1	12.5	562.5
Total	45			562.5

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: November 7, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–22241 Filed 11–13–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; National Wildlife Refuge System Evaluation: Surveys of State Agencies, Indian Tribes, and Local Partners

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. We 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.

DATES: You must submit comments on or before December 14, 2007.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395–6566 (fax) or OIRA_DOCKET@OMB.eop.gov

(e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: None. This is a new collection.

Title: National Wildlife Refuge System Evaluation: Surveys of State Agencies, Indian Tribes, and Local Partners.

Service Form Number(s): None.

Type of Request: New collection.

Affected Public: Organizations that collaborate with national wildlife refuges, including, but not limited to, State fish and wildlife agencies, volunteer groups, local and national conservation organizations, hunting and fishing groups, and other civic organizations.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Local Partner Survey	400	320	20 minutes	107
State/Indian Tribe Survey	150	120	20 minutes	40
Totals	550	440		147

Abstract:

We have contracted with Management Systems International to perform an independent evaluation of the National Wildlife Refuge System (NWRS). Although the NWRS has existed for more than 100 years, it has never undergone an independent evaluation of its overall effectiveness in achieving its conservation mission. We are now seeking such an evaluation to identify program strengths and weaknesses, as well as gaps in performance information. Such evaluations are an important element of the OMB Program Assessment Rating Tool (PART) assessments, and this evaluation will satisfy the PART requirements. The evaluation includes two data collection components involving the public:

(1) An online survey of local partners (e.g., volunteer groups, local conservation organizations, hunting and fishing groups, and other civic organizations).

(2) An online survey of Indian tribes and State fish and wildlife agency officials.

The perspective and observations of NWRS partners are critical to fully understand the issues and questions that the independent evaluation will explore. The surveys will collect data in two broad categories:

(1) The quality of NWRS partnerships with external organizations, and

(2) Partnering organizations' views as to the effectiveness of the NWRS in achieving NWRS objectives.

Comments: On February 22, 2007, we published in the Federal Register a notice (72 FR 8004) of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60–days, ending on April 23, 2007. We received three comments that are summarized below.

Comment #1: Individual questions if: (1) the evaluation team assembled has the required expertise to conduct a sound and independent evaluation; (2) the partners identified will be able to provide responses indicative of the American public and not be hand picked to provide glowing reports; and (3) the information collection is necessary and requests a copy of the survey instrument.

Response: We provided a copy of the draft survey instrument to this individual as well as a link to Management System International's website so that biographical information of MSI technical staff could be accessed.

Comment #2: The individual (same from Comment #1 above) acknowledges receipt of the survey instrument and then states that MSI does not have the proper experience to conduct this evaluation. The individual also states that hunting programs receive a disproportionate amount of attention in the NWRS given the wider U.S. public.

Response: Since 1995, MSI has been approved by the General Services Administration (GSA) to provide management related contracting services to Federal agencies under the Mission Oriented Business Integrated Services (MOBIS) contract and also has significant experience conducting evaluations for Federal agencies. MOBIS contractors offer a full range of management and consulting services that can improve a Federal agency's performance and their endeavor in meeting mission goals. MOBIS contractors possess the necessary expertise to facilitate how the Federal Government responds to a continuous stream of new mandates and evolutionary influences including the President's Management Agenda; Government Performance and Results Act; Federal Acquisition Streamlining Act; OMB Circular A–76; Federal Activities Inventory Reform Act; and government reinvention initiatives such as benchmarking and streamlining.

MSI will be investigating refuge usage of the six wildlife-dependent activities. These activities include hunting, fishing, environmental education, environmental interpretation, wildlife viewing and nature photography. These issues will be explored in terms of their fit with the NWRS's mission and mandates and the quality of the programs provided.

Comment #3: Individual states that the public groups identified as partners and stakeholders (including volunteer groups, local and national conservation organizations, nonprofit organizations, and State fish and game officials) that are to be included in the broader evaluation data collection efforts exclude an important group, Indian tribes. The individual volunteers that the tribe (s)he represents be included in the evaluation survey.

Response: Indian tribes are important stakeholders and partners to the NWRS. We will include Indian tribes in the online survey and intend to collect information in such a way that will enable us to disaggregate responses by representatives of tribes. This will enable the evaluation team to analyze the satisfaction levels of tribes in interacting with the NWRS and, as appropriate, provide a process to explore ways to improve the working relationship between tribes and the NWRS.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this 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.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 22, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E7–22202 Filed 11–13–07; 8:45 am

Billing Code 4310–55–S

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

Correction

In the **Federal Register** of November 6, 2007, in FR Doc. E7–21762, on page 62672, at the end of the first column, ''[Authority: 43 CFR 1712 and 43 CFR 1761]'' should read ''[Authority: 43 CFR 1610.5–5 and 43 CFR 2800]''.

Dated: November 7, 2007.

Tom Pogacnik,

Assistant Deputy State Director, Natural Resources (CA–930).

[FR Doc. E7–22173 Filed 11–13–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment (EA), Beaufort Sea Outer Continental Shelf (OCS) Deep-Penetration Seismic Survey—2007

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability of an Environmental Assessment and Finding of No Significant Impact.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for Shell Offshore, Inc's. (SOI) proposed seismic surveys in the Beaufort Sea Outer Continental Shelf (OCS) in 2007. The EA concludes that with required mitigation no significant adverse effects (40 CFR 1508.27) on the quality of the human environment would occur. Therefore MMS issued a Finding of No Significant Impact (FONSI). Based on the FONSI, MMS issued to SOI the Geological and Geophysical (G&G) Permit 2007–04, which contained mitigation measures to ensure that the Beaufort Sea's fish, wildlife, and Alaska Native subsistence resources would not be adversely impacted.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, #500, Anchorage, Alaska 99503–5820, Deborah Cranswick, telephone (907) 334–5267.

EA Availability: To obtain a copy of the EA and FONSI, you may contact the Minerals Management Service, Alaska OCS Region, Attention: Ms. Nikki Lewis, 3801 Centerpoint Drive, #500, Anchorage, Alaska 99503–5820, telephone (907) 334–5206. You may also view the EA, FONSI, and G&G permit (2007–04) on the MMS Web site at *http://www.mms.gov/alaska/re/recentgg/RECENTGG.HTM.*

Dated: September 17, 2007.

John T. Goll,

Regional Director, Alaska OCS Region.

[FR Doc. E7–22245 Filed 11–13–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents. Prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: Minerals Management Service (MMS), in accordance with Federal Regulations that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA) and Findings of No Significant Impact (FONSI), prepared by MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

SUPPLEMENTARY INFORMATION: MMS prepares SEAs and FONSIs for proposals that relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. These SEAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the SEA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

This listing includes all proposals for which the Gulf of Mexico OCS Region prepared a FONSI in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
WesternGeco, Geological & Geophysical Prospecting for Mineral Resources, SEA L 07–24.	Located in the central Gulf of Mexico south of Pascagoula, Mississippi.	7/5/2007
Shell Offshore, Inc., Geological & Geophysical Prospecting for Mineral Resources, SEA L07–26.	Located in the central Gulf of Mexico south of Venice, Louisiana.	7/6/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–067	Eugene Island, Block 26, Lease OCS–G 03147, located 11 miles from the nearest Louisiana shoreline.	7/10/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–069.	West Cameron, Block 206, Lease OCS–G 03496, located 40 miles from the nearest Louisiana shoreline.	7/10/2007
Apache Corporation, Structure Removal, SEA ES/SR 05–159A, 07–029.	South Timbalier, Block 161, Lease OCS–G 01248, located 32 miles from the nearest Louisiana shoreline.	7/11/2007
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR RPM GA A192–Well SS001ST00BP00.	Galveston, Block A–192, Lease OCS–G 23191, located 66 miles from the nearest Louisiana shoreline.	7/12/2007
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR RPM ST 239–Well SS002ST00BP00.	South Timbalier, Block 239, Lease OCS–G 22754, located 51 miles from the nearest Louisiana shoreline.	7/12/2007
BP Exploration & Production, Inc., Structure Removal, SEA ES/SR 91–003A.	West Cameron, Block 110, Lease OCS–G 00081, located 18 miles from the nearest Louisiana shoreline.	7/12/2007
Taylor Energy, LLC, Structure Removal, SEA ES/SR 07–071 ..	South Marsh Island, Block 16, Lease OCS–G 01184, located 44 miles from the nearest Louisiana shoreline.	7/18/2007
LLOG Exploration Offshore, Inc., Structure Removal, SEA ES/SR 07–075.	South Timbalier, Block 187, Lease OCS–G 21120, located 44 miles from the nearest Louisiana shoreline.	7/18/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–073.	Chandeleur, Block 25, Lease OCS–G 04494, located 35 miles from the nearest Louisiana shoreline.	7/24/2007
ATP Oil & Gas Corporation, Structure Removal, SEA ES/SR 07–078.	East Cameron, Block 240, Lease OCS–G 15145, located 72 miles from the nearest Louisiana shoreline.	7/24/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–059B.	Mobile, Block 916, Lease OCS–G 05753, located 7 miles from the nearest Alabama shoreline.	7/24/2007
Stone Energy Corporation, Structure Shoreline Removal, SEA ES/SR 07–077.	Ship Shoal, Block 103, Lease OCS–G 18007, located 25 miles from the nearest Louisiana shoreline.	7/24/2007
Stone Energy Corporation, Structure Removal, SEA ES/SR 07–076.	South Pelto, Block 23, Lease OCS–G 012388, located 33 miles from the nearest Louisiana shoreline.	7/24/2007
Petsec Energy, Inc., Structure Removal, SEA ES/SR 07–072 ..	Mobile, Block 955, Lease OCS–G 05757, located 9 miles from the nearest Mississippi shoreline.	7/26/2007
Apache Corporation, Structure Removal, SEA ES/SR 06–153, 06–154.	Ship Shoal, Block 190, Lease OCS–G 10775, located 34 miles from the nearest Louisiana shoreline.	7/26/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–074.	South Marsh Island, Block 233, Lease OCS–G 11929, located 17 miles from the nearest Louisiana shoreline.	7/26/2007
GOM Shelf, LLC, Structure Removal, SEA ES/SR 05–156A	Main Pass, Block 312, Lease OCS–G 16520, located 15 miles from the nearest Louisiana shoreline.	7/27/2007
Murphy Exploration & Production Company, U.S.A., Structure Removal, SEA ES/SR 07–079.	Vermilion, Block 335, Lease OCS–G 14418, located 89 miles from the nearest Louisiana shoreline.	7/27/2007
Apache Corporation, Structure Removal, SEA ES/SR 07–0689	Main Pass, Block 151, Lease OCS–G 02951, located 10 miles from the nearest Louisiana shoreline.	7/31/2007
Apache Corporation, Structure Removal, SEA ES/SR 07–005A	Eugene Island, Block 196, Lease OCS–G 00802, located 48 miles from the nearest Louisiana shoreline.	8/2/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–039A.	Eugene Island, Block 231, Lease OCS–G 00980, located 39 miles from the nearest Louisiana shoreline.	8/2/2007
Energy Resource Technology, Structure Removal, SEA ES/SR RPM VR 328, Well API 177064065300.	Vermilion, Block 328, Lease OCS–G 11896, located 93 miles from the nearest Louisiana shoreline.	8/2/2007
SPN Resources Company, Structure Removal, SEA ES/SR 07–084.	Eugene Island, Block 100, Lease OCS–G 00796, located 19 miles from the nearest Louisiana shoreline.	8/6/2007
Devon Louisiana Corporation, Structure Removal, SEA ES/SR 07–080, 081 & 082.	Eugene Island, Block 51, Lease OCS–G 00078, located 20 miles from the nearest Louisiana shoreline.	8/7/2007
Chevron Environmental Management Company, Structure Removal, SEA ES/SR 07–028A.	Ship Shoal, Block 108, Lease OCS–G 00814, located 23 miles from the nearest Louisiana shoreline.	8/9/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–085	South Marsh Island, Block 236, Lease OCS–G 00310, located 10 miles from the nearest Louisiana shoreline.	8/9/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 05–082A.	South Marsh Island, Block 241, Lease OCS 00310, located 12 miles from the nearest Louisiana shoreline.	8/9/2007
Apache Corporation, Revised Permit to Modify, SEA ES/SR ST161 RPMs–D.	South Timbalier, Block 161, Lease OCS–G 01248, located 33 miles from the nearest Louisiana shoreline.	8/13/2007
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 04–028A.	High Island, Block 140, Lease OCS–G 00518, located 20 miles from the nearest Louisiana shoreline.	8/14/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 06–164.	West Cameron, Block 524, Lease OCS–G 23674, located 93 miles from the nearest Louisiana shoreline.	8/14/2007
St. Mary Energy Company, Structure Removal, SEA ES/SR 07–088.	Vermilion, Block 273, Lease OCS–G 14412, located 96 miles from the nearest Louisiana shoreline.	8/16/2007
Newfield Exploration Company, Structure Removal, SEA ES/SR 07–035B.	West Cameron, Block 146, Lease OCS–G 01996, located 25 miles from the nearest Louisiana shoreline.	8/21/2007
BT Operating, Inc., Structure Removal, SEA ES/SR 07–087	Eugene Island, Block 294, Lease OCS–G 03569, located 73 miles from the nearest Louisiana shoreline.	8/24/2007
CGG Veritas, Geological & Geophysical Prospecting for Mineral Resources, SEA T07–12.	Located in the western Gulf of Mexico south of Galveston, Texas.	8/24/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–070	Eugene Island, Block 313, Lease OCS–G 02608, located 71 miles from the nearest Louisiana shoreline.	8/30/2007

Activity/operator	Location	Date
Energy Partners, LTD., Structure Removal, SEA ES/SR 07–090, 091.	High Island, Block 72, Lease OCS–G 22231, located 18 miles from the nearest Texas shoreline.	8/30/2007
Energy Partners, LTD., Structure Removal, SEA ES/SR 07–092.	High Island, Block A327, Lease OCS–G 02418, located 109 miles from the nearest Texas shoreline.	9/5/2007
Maritech Resources, Inc., Structure Removal, SEA ES/SR 07–095.	Viosca Knoll, Block 213, Lease OCS–G 21720, located 28 miles from the nearest Alabama shoreline.	9/5/2007
Energy Partners, Ltd., Structure Removal, SEA 07–093	West Cameron, Block 427, Lease OCS–G 02846, located 67 miles from the nearest Louisiana shoreline.	9/6/2007
ExxonMobil Production Company, Structure Removal, SEA 07–094.	West Delta, Block 99, Lease OCS–G 01096, located 22 miles from the nearest Louisiana shoreline.	9/7/2007
Apache Corporation, Structure Removal, SEA ES/SR 06–145A	East Cameron, Block 48, Lease OCS–G 00768, located 19 miles from the nearest Louisiana shoreline.	9/11/2007
Houston Exploration Company, Structure Removal, SEA ES/SR 07–100, 07–101.	South Marsh Island, Block 252, Lease OCS–G 02598, located 14 miles from the nearest Louisiana shoreline.	9/21/2007
Magnum Hunter Production, Inc., Structure Removal, SEA ES/SR 07–096.	West Cameron, Block 295, Lease OCS–G 24730, located 28 miles from the nearest Texas shoreline.	9/21/2007
Chevron U.S.A., Inc., Structure Removal, SEA ES/SR 07–097, 07–098.	West Cameron, Block 48, Lease OCS–G 01351, located 4 miles from the nearest Louisiana shoreline.	9/21/2007
Wavefield Geophysical/Fugro Geoteam, SMNG for TGS–NOPEC Geophysical Company, Geological & Geophysical Prospecting for Mineral Resources, SEA L07–051.	Located in the central Gulf of Mexico south of Venice, Louisiana.	9/27/2007
WESTERN GECO for Multi Client, LLC, Geological & Geophysical Prospecting for Mineral Resources, SEA T07–20.	Located in the western Gulf of Mexico south of Galveston, Texas.	9/27/2007
Apache Corporation, Structure Removal, SEA ES/SR 07–103	Ship Shoal, Block 193, Lease OCS–G 13917, located 45 miles from the nearest Louisiana shoreline.	9/27/2007
TDC Energy, LLC, Structure Removal, SEA ES/SR 07–102	West Cameron, Block 222, Lease OCS–G 03269, located 37 miles from the nearest Louisiana shoreline.	9/27/2007
Stone Energy Corporation, Structure Removal, SEA ES/SR 07–104.	Vermilion, Block 46, Lease OCS–G 00079, located 8 miles from the nearest Louisiana shoreline.	9/28/2007

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about SEAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact MMS at the address or telephone listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: October 18, 2007.

Lars Herbst,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. E7–22251 Filed 11–13–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period November 1, 2007, through April 30, 2008. The List of Restricted Joint Bidders published in the **Federal Register** on April 17, 2007, covered the period May 1, 2007, through October 31, 2007.

Group I

Exxon Mobil Corporation
ExxonMobil Exploration Company

Group II

Shell Oil Company
Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
Shell Consolidated Energy Resources Inc.
Shell Land & Energy Company
Shell Onshore Ventures Inc.
Shell Offshore Properties and Capital II, Inc.
Shell Rocky Mountain Production LLC
Shell Gulf of Mexico Inc.

Group III

BP America Production Company
BP Exploration & Production Inc.
BP Exploration (Alaska) Inc.

Group IV

TOTAL E&P USA, Inc.

Group V

Chevron Corporation
Chevron U.S.A. Inc.
Chevron Midcontinent, L.P.
Unocal Corporation
Union Oil Company of California
Pure Partners, L.P.

Group VI

ConocoPhillips Company
ConocoPhillips Alaska, Inc
ConocoPhillips Petroleum Company
Phillips Pt. Arguello Production Company
Burlington Resources Oil & Gas Company LP
Burlington Resources Offshore Inc.
The Louisiana Land and Exploration Company
Inexeco Oil Company

Group VII

Eni Petroleum Co. Inc.
Eni Petroleum U.S. LLC
Eni Oil U.S. LLC
Eni Marketing Inc.
Eni BB Petroleum Inc.
Eni U.S. Operating Co. Inc.
Eni BB Pipeline LLC.

Group VIII

Petrobras America Inc.

Dated: October 22, 2007.

Randall B. Luthi,

Director, Minerals Management Service.

[FR Doc. E7–22249 Filed 11–13–07; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty order on polyethylene terephthalate film, sheet, and strip from India and the antidumping duty orders on polyethylene terephthalate film, sheet, and strip from India and Taiwan.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order on polyethylene terephthalate film, sheet, and strip from India and the antidumping duty orders on polyethylene terephthalate film, sheet, and strip from India and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date*: November 5, 2007.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On June 1, 2007, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (72 FR 30627, June 1, 2007). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on January 29, 2008, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on February 20, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 11, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 14, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is February 8, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 29, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 29, 2008. On April 1, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 3, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the

Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: November 7, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–22160 Filed 11–13–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of an open ACA meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. APP. 1), notice is hereby given of an open meeting of the Advisory Committee on Apprenticeship (ACA).

Time and Date: The meeting will begin at approximately 8:30 a.m. on Wednesday, December 12, 2007, and continue until approximately 5 p.m. The meeting will reconvene at approximately 8:30 a.m. on Thursday, December 13, 2007, and adjourn at approximately 5 p.m.

Place: Stanford Court, 905 California Street, Nob Hill, San Francisco, California 94108.

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the ACA meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship, Employment and Training Administration (ETA), U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2796, (this is not a toll-free number).

Matters To Be Considered:

The agenda will focus on the following topics:

- Office of Apprenticeship/ETA Updates.
- Regulatory Update.
- Education and Outreach Initiative—Preliminary Results.
- ETA Training and Employment Guidance Letter No. 2–07.

Status:

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Ms. Kenya Huckaby at (202) 693–3795 no later than Wednesday, December 5, 2007, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. Anthony Swoope, Administrator, Office of Apprenticeship, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue NW., Washington, DC 20210. Such submissions should be sent by Wednesday, December 5, 2007, to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. Anthony Swoope, by Wednesday, December 5, 2007. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 6th day of November 2007.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training Administration.

[FR Doc. E7–22130 Filed 11–13–07; 8:45 am]

BILLING CODE 4510–FR–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Eastman Kodak Company; Environmental Assessment and Finding of No Significant Impact Related to Proposed License Amendment Authorizing Exemption to 10 CFR 70.24

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mary T. Adams, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop E–2C40M, Washington, DC 20555–0001, telephone (301) 492–3113 and e-mail *mta@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff is considering a request to amend Materials License SNM–1513, issued to Eastman Kodak Company (Kodak), to authorize an exemption to the criticality accident alarm system requirements of 10 CFR 70.24. The NRC has prepared an Environmental Assessment (EA) in support of this action. Based upon the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate and, therefore, an Environmental Impact Statement (EIS) will not be prepared.

II. Environmental Assessment

Introduction: Eastman Kodak Company (Kodak) in Rochester, New York, has been licensed since 1966 to possess and use special nuclear material (SNM) in a research and development (R&D) facility. This license was issued pursuant to 10 CFR part 70, Domestic Licensing of Special Nuclear Material. In July 2006, Kodak notified NRC that it had ceased principal activities and intended to decommission the facility and terminate the SNM license. Before decommissioning activities can begin, Kodak intends to remove the SNM by packaging the material and transporting it to a Department of Energy facility.

Kodak possessed and used the SNM in the R&D facility with an exemption from nuclear criticality accident alarm system requirements of 10 CFR 70.24; NRC granted this exemption because the configuration of the SNM was fixed and a criticality accident was not credible. Kodak will change the SNM configuration during packaging, and will provide portable criticality accident alarms for the packaging activity. After packaging the SNM, Kodak will move the packages from the R&D facility through a long corridor to a loading dock where the packages will be loaded onto a truck for transport off the Kodak site. Kodak requested an exemption from the alarm system requirements for the corridor and loading dock, on the basis that the configuration of the SNM in the transportation packages was such that an accidental criticality is not credible. NRC staff reviewed the exemption request and determined that

it provided an adequate demonstration that the criteria in 10 CFR 70.17(a) for granting a specific exemption from 70.24 have been met.

Description of the Proposed Action: The proposed action is NRC's granting an exemption from 10 CFR 70.24 for certain locations of the Kodak facility for a very short time during movement of SNM. In a letter dated October 5, 2007, Kodak requested an exemption to the criticality accident alarm system requirements of 10 CFR 70.24 for portions of the facility where SNM will be staged prior to loading onto a truck for transportation to an offsite location. Kodak possesses a critical mass of SNM that will be packaged into critically-safe transportation containers inside the facility and then moved along a corridor to a loading dock. Kodak will provide accident alarm system coverage for the area of the facility where the SNM will be packaged, but has requested an exemption for the corridor and loading dock.

Need for the Proposed Action: This exemption is necessary to allow Kodak to move the SNM from the location where it has been used and packaged to the loading dock without the necessity to provide criticality accident alarm system coverage. Kodak provided a criticality safety analysis that demonstrated that a criticality accident is not credible after the SNM has been packaged for transport.

Alternatives to the Proposed Action: An alternative to granting the exemption would be to require Kodak to provide accident alarm coverage for the corridor and loading dock. The licensee has demonstrated that the available fuel is much less than the critical mass for a 6M2R shipping container. Thus, a criticality event is not credible so long as the 6M2R containers are closed, and criticality accident alarm system coverage is not necessary.

Environmental Impacts of the Proposed Action and Alternatives: There will be no environmental impact to granting this exemption. The alarm system required by 10 CFR 70.24 does not prevent accidental criticality; the system would reduce the dose to workers and members of the public from a criticality accident by warning them of the criticality event so that they can move away from the area. Kodak has demonstrated adequately that a criticality accident in the corridor or on the loading dock is sufficiently unlikely and that an alarm system is not needed. There will be no environmental impact from the alternative of requiring alarm coverage for the corridor and loading dock.

No environmental resources will be affected.

Conclusion: NRC has concluded that granting the requested exemption will have no significant impact on the environment, is in conformance with NRC regulations in 10 CFR part 70, is authorized by law, and will not endanger life or property or the common defense and security and is in the public interest.

III. Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the amendment of Special Nuclear Material License SNM–1513. On the basis of the assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, the Commission is making a Finding of No Significant Impact.

The Environmental Assessment and the documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room or through the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible through the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room).

Agencies and Persons Consulted: New York State Department of Health.

IV. Further Information

1. Eastman Kodak Company Amendment to SNM–1513, February 9, 2007, ML072200332.

2. Eastman Kodak Company Response to NRC Review Comments from License Amendment Application for Decommissioning of Kodak Californium Flux Multiplier, SNM–1513, Docket 7001703, June 18, 2007, ML071970253.

3. Eastman Kodak Company Request for exemption from 10 CFR 70.24 for License Amendment Application for Decommissioning of Kodak Californium Flux Multiplier, SNM–1513, Docket 7001703, October 5, 2007, ML072880667.

4. Environmental Review Guidance for Licensing Actions Associated with NMSS Programs, NUREG–1748, August 2003, ML032540811.

Dated at Rockville, Maryland this 31st day of October, 2007.

For the U.S. Nuclear Regulatory Commission.

Peter Habighorst,

Chief, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E7–22183 Filed 11–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Independent External Review Panel To Identify Vulnerabilities in the U.S. Nuclear Regulatory Commission's Materials Licensing Program: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: NRC will convene a meeting of the Independent External Review Panel to Identify Vulnerabilities in the U.S. Nuclear Regulatory Commission's (NRC) Materials Licensing Program from November 27 through November 30, 2007. A sample of agenda items to be discussed during the public session includes: (1) History of the NRC's ''good faith'' presumption in the licensing process; (2) pre-licensing guidance; and (3) specific, general, and import/export licensing procedures and processes. A copy of the agenda for the meeting can be obtained by e-mailing Mr. Aaron T. McCraw at the contact information below.

Purpose: Initiate the panel's assessment of the NRC's licensing program beginning with an examination of the NRC's ''good faith'' presumption and specific procedures and processes of the licensing program.

Date and Time for Closed Sessions: November 30, 2007, from 8 a.m. to 11 a.m. This session will be closed so that NRC staff and the Review Panel can discuss safeguards information and pre-decisional information pursuant to 5 U.S.C. 552b(c)(3) and 5 U.S.C. 552b(c)(9)(B), respectively.

Date and Time for Open Sessions: November 27, 2007, from 2 p.m. to 4:45 p.m.; and November 28–29, from 9 a.m. to 4:30 p.m.

Address for Public Meeting: U.S. Nuclear Regulatory Commission, Two White Flint North Building, 11545 Rockville Pike, Rockville, Maryland 20852. Specific room locations will be indicated for each day on the agenda.

Public Participation: Any member of the public who wishes to participate in the meeting should contact Mr. McCraw using the information below.

FOR FURTHER INFORMATION CONTACT: Aaron T. McCraw, e-mail: *atm@nrc.gov*, telephone: (301) 415–1277.

Conduct of the Meeting

Mr. Thomas E. Hill will chair the meeting. Mr. Hill will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Mr. McCraw at the contact information listed above. All submittals must be received by November 20, 2007, and must pertain to the topics on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland 20852–2738, telephone (800) 397–4209, on or about March 1, 2008.

4. Persons who require special services, such as those for the hearing impaired, should notify Mr. McCraw of their planned attendance.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily section 161a); the Federal Advisory Committee Act (5 U.S.C. App.); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations*, Part 7.

Dated: November 6, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–22184 Filed 11–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATES: Weeks of November 12, 19, 26, December 3, 10, 17, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 12, 2007

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

Tuesday, November 20, 2007—

9:05 a.m. Affirmation Session (Public Meeting) (Tentative).

a. Pacific Gas and Electric Co. (Diablo Canyon ISFSI), Docket No. 72–26–ISFSI, San Luis Obispo Mothers for Peace's Contentions and Request for a Hearing Regarding Diablo Canyon Environmental Assessment Supplement (Tentative).

b. Dominion Nuclear North Anna, LLC (Early Site Permit for North Anna ESP Site), LBP–07–9 (June 9, 2007) (Tentative).

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

Friday, December 7, 2007

10 a.m. Discussion of Intragovernmental Issues (Closed—Ex. 1 & 9)

2 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

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)

Week of December 17, 2007—Tentative

There are no meetings scheduled for the Week of December 17, 2007.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

Additional Information

''Briefing on Threat Environment Assessment (Closed—Ex. 1)'' previously scheduled for Tuesday, December 4, 2007, at 9:30 a.m. has been rescheduled on Friday, December 7, 2007, at 2 p.m.

* * * * *

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 8, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–5685 Filed 11–9–07; 12:16 pm]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

2008 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2007, is $119,250,233.05;

2. The September 30, 2007, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $3,522,368,374.78 as of June 30, 2007;

4. The cumulative system unallocated charge balance is ($292,991,595.22) as of June 30, 2007;

5. The pooled credit ratio for calendar year 2008 is zero;

6. The pooled charged ratio for calendar year 2008 is zero;

7. The surcharge rate for calendar year 2008 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,280 for months in calendar year 2008;

9. The amount described in section 1(k) of the Act as ''2.5 times the monthly compensation base'' is $3,200 for base year (calendar year) 2008;

10. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,653 for months in calendar year 2008;

11. The amount described in section 3 of the Act as ''2.5 times the monthly compensation base'' is $3,200 for base year (calendar year) 2008;

12. The amount described in section 4(a-2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $3,200 with respect to disqualifications ending in calendar year 2008;

13. The maximum daily benefit rate under section 2(a)(3) of the Act is $61 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2008.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2007. The balance in notice (2) is based on data as of September 30, 2007. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2008. The determinations made in notices (8) through (12) are effective January 1, 2008. The determination made in notice (13) is effective for registration periods beginning after June 30, 2008.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2007, the computation of the calendar year 2008 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2008, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2008.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was 2,763,287,237.04. The system compensation base for June 30, 2007 was $3,522,368,374.78. The ratio of $3,522,368,374.78 to $2,763,287,237.04 is 1.27470222. Multiplying 1.27470222 by $100 million yields $127,470,222. Multiplying $50 million by 1.27470222 produces $63,735,111. The Account balance on June 30, 2007, was $119,250,233.05. Accordingly, the surcharge rate for calendar year 2008 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2008 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A − 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2008 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2008 tier 1 tax base is $102,000. Subtracting $37,800 from $102,000 produces $64,200. Dividing $64,200 by $56,700 yields a ratio of 1.13227513. Adding one gives 2.13227513. Multiplying $600 by the amount 2.13227513 produces the amount of $1,279.37, which must then be rounded to $1,280. Accordingly, the monthly compensation base is determined to be $1,280 for months in calendar year 2008.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2008 monthly compensation base of $1,280 produces $3,200. Accordingly, the amount determined under section 1(k) is $3,200 for calendar year 2008.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account. The calendar year 2008 monthly compensation base is $1,280. The ratio of $1,280 to $600 is 2.13333333. Multiplying 2.13333333 by $775 produces $1,653. Accordingly, the amount determined under section 2(c) is $1,653 for months in calendar year 2008.

Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2008 monthly compensation base of $1,280 produces $3,200. Accordingly, the amount determined under section 3 is $3,200 for calendar year 2008.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the

disqualification ends. Multiplying 2.5 by the calendar year 2008 monthly compensation base of $1,280 produces $3,200. Accordingly, the amount determined under section 4(a–2)(i)(A) is $3,200 for calendar year 2008.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2008, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2007 monthly compensation base is $1,230. Multiplying $1,230 by 0.05 yields $61.50, which must then be rounded down to $61. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2008, is determined to be $61.

Dated: November 7, 2007.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E7–22267 Filed 11–13–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Thursday, November 15, 2007 at 10 a.m., in Room L–002, the Auditorium.

The subject matters of the Open Meeting will be:

1. The Commission will consider rule proposals to improve mutual fund disclosure by providing investors with a summary prospectus containing key information in plain English in a clear and concise format, and by enhancing the availability on the Internet of more detailed information to investors. The Commission also will consider whether to propose related amendments to Form N–1A.

2. The Commission will consider whether to adopt amendments to Form 20–F, Rules 1–02, 3–10 and 4–01 of Regulation S–X, Forms F–4 and S–4, and Rule 701 under the Securities Act to accept financial statements prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board without reconciliation to generally accepted accounting principles as used in the United States when contained in the filings of foreign private issuers with the Commission.

3. The Commission will consider whether to adopt amendments to its disclosure and reporting requirements under the Securities Act of 1933 and Securities Exchange Act of 1934 to expand the number of companies that qualify for scaled disclosure requirements for smaller reporting companies. Companies with less than $75 million in public equity float would qualify for the scaled requirements, and companies without a calculable public equity float would qualify if their annual revenues were below $50 million. To streamline and simplify regulation, the amendments to be considered would move the scaled disclosure requirements from Regulation S–B into Regulation S–K and would eliminate the ''SB'' forms.

4. The Commission will consider whether to adopt amendments to Rule 144 to shorten the holding period for the resale of restricted securities if the issuer of the securities is subject to the Exchange Act reporting requirements. The amendments also substantially reduce the restrictions applicable to resales of restricted securities by non-affiliates of both reporting and non-reporting companies. In addition, the amendments codify several staff interpretations relating to Rule 144 and revise the manner of sale requirements, volume limitations, and Form 144 filing thresholds. Finally, the Commission also will consider whether to adopt related amendments to Rule 145.

5. The Commission will consider whether to adopt amendments to Rule 12h–1 under the Exchange Act to provide two exemptions from the registration requirements of the Exchange Act for compensatory employee stock options. The first exemption would be available to issuers that are not required to file periodic reports under the Exchange Act, and the second exemption would be available to issuers that are required to file those reports because they have registered a class of security under section 12 of the Exchange Act or are required to file those reports pursuant to section 15(d) of the Exchange Act.

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.

Dated: November 7, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–22169 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56761; SR–Amex–2007–65; SR–BSE–2007–45; SR–CBOE–2007–64; SR–ISE–2007–44; SR–NYSEArca–2007–65]

Self-Regulatory Organizations; American Stock Exchange LLC; Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Incorporated; International Securities Exchange, LLC; Order Approving Proposed Rule Changes; and NYSEArca, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to the Definition of a Complex Trade

November 7, 2007.

I. Introduction

On June 27, 2007, September 13, 2007, June 12, 2007, June 1, 2007, and July 6, 2007, the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange, LLC (''ISE''), and NYSE Arca, Inc. (''NYSE Arca'') (each, an ''Exchange'' and, collectively, the ''Exchanges''), respectively, filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes to amend each of their respective rules governing the operation of the Intermarket Option Linkage (''Linkage'') to modify the definition of ''complex trade'' to include stock-option trades. On July 11, 2007, NYSE Arca filed Amendment No. 1 to its proposed rule change.[3] The proposed rule changes, as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 to SR–NYSEArca–2007–65 effected technical corrections to the proposed rule change.

amended, were published for comment in the **Federal Register** on October 4, 2007.[4] The Commission received no comments on the proposed rule changes. This order approves the proposed rule changes, as amended.

II. Description of the Proposals

Under section 8(c)(iii)(G) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan''),[5] the Linkage Plan participants (''Participants'') may amend the definition of the term ''complex trade'' from time to time. The Participants have agreed to change the definition of ''complex trade'' to extend the associated trade-through liability exemption to cover certain stock-option trades. Accordingly, each of the Exchanges has submitted a proposal that would amend each such Exchange's definition of ''complex trade,'' set forth in the Exchange's respective rules pertaining to the Linkage, to include the execution of a stock-option order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of option contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock or convertible security necessary to create a delta neutral position, but in no case in a ratio greater than eight option contracts per unit of trading of the underlying stock or convertible security established for that series by the Options Clearing Corporation.[6]

III. Discussion

After careful review, the Commission finds that the proposed rule changes, as amended, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.[7] In particular, the Commission finds that the proposed rule changes, as amended, are consistent with the provisions of section 6(b)(5) of the Act,[8] which requires, among other things, that national securities exchanges' rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that by amending the definition of ''complex trade'' to include certain stock-option orders as described above, and by providing a consistent definition of ''complex trade'' in the rules of the Exchanges, the proposals may facilitate the execution of such complex orders.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule changes (SR–Amex–2007–65; SR–BSE–2007–45; SR–CBOE–2007–64; SR–ISE–2007–44; SR–NYSEArca–2007–65), as amended, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22165 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[4] Securities Exchange Act Release No. 56555 (September 27, 2007), 72 FR 56814.

[5] On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating the Linkage proposed by Amex, CBOE, and ISE. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, the Philadelphia Stock Exchange, Inc. (''Phlx''), Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and BSE joined the Linkage Plan. *See* Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

[6] The Exchanges propose to amend their respective rules that define ''complex trade'' for Linkage purposes, namely Amex Rule 940(b)(3), Boston Options Exchange Rule Chapter XII, Section 1(c), CBOE Rule 6.80(4), ISE Rule 1900(3), and NYSE Arca Rule 6.92(a)(4).

The Phlx filed a proposed rule change with the Commission to amend its definitions of ''synthetic option'' and ''complex trade'' to conform such definitions with the related ''stock option'' and ''complex trade'' definitions of the Exchanges. *See* Securities Exchange Act Release No. 56608 (October 3, 2007), 72 FR 57985 (October 11, 2007) (SR–Phlx–2007–40). The Commission is approving proposed rule change SR–Phlx–2007–40 in a separate order today. *See* Securities Exchange Act Release No. 56760 (November 7, 2007).

[7] In approving these proposals, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56764; File No. SR–Amex-2007–113]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Previously Approved Rules Relating To a New Class of Off-Floor Market Maker Called Designated Amex Remote Traders

November 7, 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 American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to delete the recently approved changes to its rules establishing a new class of off-floor market makers known as Designated Amex Remote Traders, or ''DARTs.''[5]

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Amex's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 56446 (Sept. 17, 2007), 72 FR 54303 (Sept. 24, 2007) (approving SR–Amex–2007–85).

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

The Exchange proposes to delete the recently approved changes to its rules establishing a new class of off-floor market makers known as Designated Amex Remote Traders, or ''DARTs.'' The Exchange plans to refile the proposed rule change with some revisions and subject to a new comment period. The Exchange is taking this action to facilitate the Commission's addressing, to the extent still germane, the substance of comments it previously received on the original filing.[6]

(2) Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

The Exchange has requested that the Commission waive the 30-day pre-operative period, so that the proposal may become operative as of the date of filing. The Commission hereby grants the Exchange's request. The Commission believes that such action is consistent with the protection of investors and the public interest, because the Exchange will be able to submit the revised DART proposal without delay and interested parties will have the benefit of a notice-and-comment period on the new proposal.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–113. 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 Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–113 and should be submitted on or before December 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22180 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* E-mail from William Love, Vice President and Associate General Counsel, Amex, to Michael Gaw, Assistant Director, and Sonia Trocchio, Special Counsel, Division of Market Regulation, Commission (Nov. 5, 2007).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(a).

[10] 17 CFR 240.19b–4(f)(6). In addition, the self-regulatory organization must give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice period in this case.

[11] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56762; File No. SR–CBOE–2007–129]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding the CBSX Floor Post

November 7, 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 November 2, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change CBOE Stock Exchange (''CBSX'') rules relating to the CBSX Floor Post. The text of the proposed rule change is available at CBOE's principal office, the Commission's Public Reference Room, and *http://www.cboe.org/legal*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBSX is the Exchange's stock trading facility. It is an all-electronic trading platform. In connection with the establishment of CBSX, the Exchange created a space on the CBOE trading floor (apart from the equity option trading posts) to allow for in-person price discovery. All CBSX Designated Primary Market-Makers (''DPMs'') currently are required to maintain personnel at this post (the ''Floor Post'') to respond to price discovery inquiries from brokers. Any resulting orders/trades are entered and processed electronically. There is no open-outcry trading on CBSX.

The proposed rule change has two purposes. First, the filing proposes to modify Rule 51.12 to state that CBSX ''may'' maintain a Floor Post. Currently, Rule 51.12 contemplates that CBSX ''will'' maintain a Floor Post. Although the Exchange intends to continue to maintain the Floor Post, this change will provide the flexibility to remove the Floor Post if at a later time the Exchange deems such action prudent.

The second change is to eliminate the requirement that CBSX DPMs maintain personnel at the Floor Post. As proposed, it would be optional for CBSX DPM firms to staff the Floor Post. Certain CBSX DPMs have requested this change, noting that it would allow them to more efficiently allocate resources. The Exchange believes that a change to this requirement would have absolutely no adverse impact to trading on CBSX.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with section 6(b) of the Act [3] in general, and furthers the objectives of section 6(b)(5) of the Act [4] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2007–129 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–129. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–129 and should be submitted on or before December 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22166 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56751; File No. SR–FINRA–2007–019]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to NYSE Rule 2

November 6, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2007, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is simultaneously approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the definition of ''member organization'' in FINRA's NYSE Rule 2(b)[4] to reflect that FINRA membership is a condition of being an NYSE member organization. The proposed rule change conforms FINRA's NYSE Rule 2(b) to a recently approved rule change by the NYSE to its version of Rule 2(b).[5] The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and *http://www.finra.org*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 30, 2007, NASD and NYSE Regulation consolidated their member firm regulation operations into a combined organization, FINRA. To enable FINRA to meet its new regulatory responsibilities, the NYSE amended NYSE Rule 2(b) to require FINRA membership as a condition of being an NYSE member organization. The proposed rule change would make a conforming change to FINRA's NYSE Rule 2(b).[6]

The effective date of the proposed rule change is October 12, 2007, which is the effective date of the NYSE's identical amendments to NYSE Rule 2(b), as recently approved by the Commission.[7]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change serves to further the consolidation of the member firm regulation functions of NASD and NYSE Regulation.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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. 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–FINRA–2007–019 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–FINRA–2007–019. This file number should be included on the subject line if e-mail is used. To help the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to the Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. (''NYSE Regulation''). *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007).

[4] FINRA has incorporated into its rulebook certain rules of the New York Stock Exchange, LLC (''NYSE''), including NYSE Rule 2. This incorporated NYSE rule applies solely to those members of FINRA that are also members of NYSE on or after July 30, 2007 (''Dual Members''), until such time as FINRA adopts a consolidated rulebook applicable to all of its members. The incorporated NYSE rules apply to the same categories of persons to which they applied as of July 30, 2007. In applying the incorporated NYSE rules to Dual Members, FINRA also has incorporated the related interpretive positions set forth in the NYSE Rule Interpretations Handbook and NYSE Information Memos.

[5] *See* Securities Exchange Act Release No. 56654 (October 12, 2007), 72 FR 59129 (October 18, 2007) (Order Approving Proposed Rule Change Relating to NYSE Rule 2; File No. SR–NYSE–2007–67) (''Release No. 34–56654'').

[6] Pursuant to Rule 17d–2 under the Act, 17 CFR 240.17d–2, NASD, NYSE, and NYSE Regulation, Inc. entered into an agreement (''Agreement'') to reduce regulatory duplication for firms that are Dual Members by allocating certain regulatory responsibilities for selected NYSE rules from NYSE Regulation to FINRA. The Agreement includes a list of all of those rules (''Common Rules'') for which FINRA has assumed examination, enforcement and surveillance responsibilities under the Agreement relating to compliance by Dual Members to the extent that such responsibilities involve member firm regulation. *See* Securities Exchange Act Release No. 56148 (July 26, 2007) 72 FR 42146 (August 1, 2007) (Notice of Filing and Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities). The Common Rules are the same NYSE rules that FINRA has incorporated into its rulebook. *See* Securities Exchange Act Release No. 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Incorporate Certain NYSE Rules Relating to Member Firm Conduct) (File No. SR–NASD–2007–054). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by either NYSE or FINRA to the substance of any of the Common Rules.

[7] *See* Release No. 34–56654, *supra* note 5. The Commission notes that, under the recent amendment to NYSE Rule 2(b), NYSE-only member organizations are provided a 60-day grace period within which they must apply for and be approved for FINRA membership.

[8] 15 U.S.C. 78o–3(b)(6).

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 FINRA. 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–FINRA–2007–019 and should be submitted on or before December 5, 2007.

IV. Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.[9] Specifically, the Commission believes that the proposed rule change is consistent with section 15A(b)(6) of the Act[10] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change amends the version of NYSE Rule 2(b) that was incorporated into FINRA's rulebook as part of the consolidation of the member firm regulatory consolidation between NASD and NYSE. The Commission notes that the proposed rule change would make FINRA's NYSE Rule 2(b) identical to the version of NYSE Rule 2(b) in the NYSE rulebook that recently was amended and approved by the Commission.[11] In addition, the Commission believes that the proposed rule change comports with the provision of the 17d–2 Agreement, as approved by the Commission, in which FINRA and NYSE agreed to promptly propose conforming changes, absent a disagreement about the substance of a proposed rule change to one of the Common Rules, to ensure that such rules continue to be Common Rules under the Agreement. In this regard, the Commission believes that it is appropriate for the proposed rule to be effective retroactively as of October 12, 2007, which is the date NYSE's amendment to NYSE Rule 2(b) was approved by the Commission.[12]

The Commission finds good cause to approve the proposal prior to the thirtieth day after the proposal was published for comment in the **Federal Register**. This approval allows the proposed rule change to take effect without delay. The NYSE's proposed revision to NYSE Rule 2(b) was published for comment and approved by the Commission.[13] Therefore, interested persons were provided the opportunity to submit comments on rule text that is identical to FINRA's proposal. For this reason, the Commission finds good cause, consistent with section 19(b)(2) of the Act, to grant accelerated approval to the proposed rule change.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–FINRA–2007–019) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22161 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[9] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] *See* Release No. 34–56654, *supra* note 5.

[12] *Id.*

[13] *Id.*

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56752; File No. SR–NASD–2007–043]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA''); Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend NASD Rule 7001C To Increase Percentage of Market Data Revenue Shared With NASD/NSX TRF Participants

November 6, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2007, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NASD. On October 29, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA proposes to amend NASD Rule 7001C (Securities Transaction Credit) to increase the percentage of New York Stock Exchange (''Tape A''), American Stock Exchange (''Tape B'') and Nasdaq Exchange (''Tape C'') revenue shared with FINRA members reporting trades to the NASD/NSX Trade Reporting Facility (''NASD/NSX TRF''). The text of the proposed rule change is available at FINRA, *http://www.finra.org,* and the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation. *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007). Accordingly, the NASD/NSX TRF is now doing business as the FINRA/NSX TRF. The formal name change of each of FINRA's Trade Reporting Facilities is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual. In Amendment No. 1, FINRA made certain changes to the original proposed rule change of June 29, 2007, including to: (i) *Propose* to share 75%, rather than 100% as proposed in the original filing, of market data revenue with NASD/NSX TRF participants, and (ii) revise the Self-Regulatory Organization's Statement on Burden on Competition.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On November 6, 2006, the Commission approved the establishment of the NASD/NSX TRF,[4] and the NASD/NSX TRF commenced operation on November 27, 2006. The NASD/NSX TRF provides FINRA members another mechanism for reporting locked-in transactions in exchange-listed securities effected otherwise than on an exchange. In connection with the establishment of the NASD/NSX TRF, FINRA and National Stock Exchange, Inc. (''NSX'') entered into the Limited Liability Company Agreement of NASD/NSX Trade Reporting Facility LLC (''Agreement''). Under the Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the NASD/NSX TRF. NSX, the ''Business Member,'' is primarily responsible for the management of the NASD/NSX TRF's business affairs to the extent those activities are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the NASD/NSX TRF.

Pursuant to NASD Rule 7001C, FINRA members reporting trades in Tape A, Tape B and Tape C securities to the NASD/NSX TRF currently receive a 50% *pro rata* credit on gross market data revenue earned by the NASD/NSX TRF. ''Gross revenue'' is the revenue received by the NASD/NSX TRF from the three tape associations after the tape associations deduct allocated support costs and unincorporated business costs.

Proposal To Increase Securities Transaction Credit

FINRA proposes to amend Rule 7001C to increase from 50% to 75% the percentage of market data revenue shared with members under the securities transaction credit program. Thus, FINRA members reporting trades in Tape A, Tape B and Tape C stocks to the NASD/NSX TRF will receive a 75% *pro rata* credit on gross market data revenue earned by the NASD/NSX TRF.

NSX, as the Business Member under the Agreement, has determined that the proposed increase in the percentage of market data revenue shared with NASD/NSX TRF participants is necessary for competitive reasons. NSX believes that, particularly in light of the fact that FINRA has filed a proposed rule change whereby the NASD/NYSE Trade Reporting Facility (''NASD/NYSE TRF'') would share 100% of market data revenue with its participants,[5] competitive pricing is crucial to the NASD/NSX TRF's business. NSX has indicated that because there are currently no fees for reporting trades to the NASD/NSX TRF, NSX will fund regulatory costs associated with the NASD/NSX TRF from NSX general revenues.

FINRA is proposing that the effective date of the proposed rule change shall be retroactive to April 1, 2007, the start of the second calendar quarter of 2007.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[6] in general, and with section 15A(b)(5) of the Act,[7] in particular, which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change is a reasonable and equitable credit structure in that it will be applied uniformly among members that participate in the NASD/NSX TRF and NSX has indicated that all regulatory costs owed by NSX as the Business Member related to the NASD/NSX TRF will be funded by NSX general revenues.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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 self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ASD–2007–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–043. 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

[4] *See* Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (SR–NASD–2006–108) (approval order).

[5] *See* SR–NASD–2007–031 at *http://www.finra.org/RulesRegulation/RuleFilings/2007RuleFilings/P019027.*

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(b)(5).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–043 and should be submitted on or before December 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22162 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56754; File No. SR–NASD–2007–031]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA''); Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto To Amend NASD Rule 7001E To Increase Percentage of Market Data Revenue Shared With NASD/NYSE TRF Participants

November 6, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2007, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NASD. On June 1, 2007, NASD filed Amendment No. 1. On October 29, 2007, FINRA filed Amendment No. 2 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2 only, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA proposes to amend NASD Rule 7001E (Securities Transaction Credit) to increase to 100% the percentage of New York Stock Exchange (''Tape A''), American Stock Exchange (''Tape B'') and Nasdaq Exchange (''Tape C'') revenue shared with FINRA members reporting trades to the NASD/NYSE Trade Reporting Facility (''NASD/NYSE TRF''). The text of the proposed rule change is available at FINRA, *www.finra.org,* and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On February 1, 2007, NASD filed for immediate effectiveness a proposed rule change relating to the establishment of the NASD/NYSE TRF.[4] The NASD/NYSE TRF provides NASD members another mechanism for reporting locked-in transactions in exchange-listed securities effected otherwise than on an exchange.

In connection with the establishment of the NASD/NYSE TRF, NASD and NYSE Market, Inc. (''NYSE'') entered into the Limited Liability Company Agreement of NASD/NYSE Trade Reporting Facility LLC (''NASD/NYSE TRF LLC Agreement''), a copy of which appears in the NASD Manual. Under the NASD/NYSE TRF LLC Agreement, NASD, the ''SRO Member,'' has sole regulatory responsibility for the NASD/NYSE TRF. NYSE, the ''Business Member,'' is primarily responsible for the management of the NASD/NYSE TRF's business affairs to the extent those activities are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the NASD/NYSE TRF.

On March 21, 2007, NASD filed a proposed rule change for immediate effectiveness to adopt a new NASD Rule 7000E Series relating to fees and credits applicable to the NASD/NYSE TRF.[5] Pursuant to NASD Rule 7001E, FINRA members reporting trades in Tape A, Tape B and Tape C securities to the NASD/NYSE TRF currently receive a 50% *pro rata* credit on gross market data revenue earned by the NASD/NYSE TRF. ''Gross revenue'' is the revenue received by the NASD/NYSE TRF from the three tape associations after the tape associations deduct allocated support costs and unincorporated business costs.

Proposal To Increase Securities Transaction Credit

FINRA is proposing to amend Rule 7001E to increase from 50% to 100% the percentage of market data revenue shared with members under the securities transaction credit program. Thus, FINRA members reporting trades in Tape A, Tape B and Tape C stocks to the NASD/NYSE TRF will receive a 100% pro rata credit on gross market data revenue earned by the NASD/NYSE TRF.

The NYSE, as the Business Member under the NASD/NYSE TRF LLC Agreement, has determined that the proposed increase in the percentage of market data revenue shared with NASD/NYSE TRF participants is necessary for competitive reasons. The NYSE believes that, as a new and late entrant to the OTC trade reporting arena, competitive pricing can differentiate its product offering. Additionally, the proposed increase would be consistent with the position of the NYSE that the economic benefits of off-exchange trades should

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007).

[4] *See* Securities Exchange Act Release No. 55325 (February 21, 2007), 72 FR 8820 (February 27, 2007) (SR–NASD–2007–011). The NASD/NYSE TRF commenced operation on April 18, 2007.

[5] *See* Securities Exchange Act Release No. 55526 (March 26, 2007), 72 FR 15739 (April 2, 2007) (SR–NASD–2007–025).

not accrue to exchanges.[6] The NYSE has indicated that because there are currently no fees for reporting trades to the NASD/NYSE TRF, the NYSE will fund regulatory costs associated with the NASD/NYSE TRF from NYSE general revenues.

FINRA is proposing that the effective date of the proposed rule change shall be retroactive to April 18, 2007, the date on which the NASD/NYSE TRF commenced operation.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[7] in general, and with section 15A(b)(5) of the Act,[8] in particular, which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change is a reasonable and equitable credit structure in that it will be applied uniformly among members that participate in the NASD/NYSE TRF and that the NYSE has indicated that all regulatory costs owed by the NYSE as the Business Member related to the NASD/NYSE TRF will be funded by NYSE general revenues.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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 self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NASD–2007–031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–031. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–031 and should be submitted on or before December 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22163 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* letter dated April 27, 2006 from Mr. John A. Thain, Chief Executive Officer, NYSE Group, to Chairman Cox, SEC. In that letter, the NYSE also stated that ''Since dealer-internalized trades do not contribute directly to price discovery, the ideal resolution would be to remove such trades from the revenue sharing formula.''

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56759; File No. SR–NASDAQ–2007–069]

Self-Regulatory Organization; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Amend Its Rule Governing the Relation of a Nasdaq Market Maker's Quotations to the Prevailing Market

November 7, 2007.

On August 1, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to eliminate a requirement governing the relation of Nasdaq market makers' quotations to the prevailing market. On September 19, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on October 5, 2007.[3] The Commission received no comments regarding the proposal, and is thereby approving the proposed rule change as modified by Amendment No. 1.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[5] which requires that the rules of an exchange be 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 securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56586 (October 1, 2007), 72 FR 57085.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

Nasdaq proposes to amend Rule 4613(c) to eliminate the requirement that a Nasdaq market maker's quotations be ''reasonably related to the prevailing market.'' The requirement was adopted in 1987, at which time Nasdaq was part of the National Association of Securities Dealers, Inc. and operated an over-the-counter market with competing dealers. Nasdaq states that the requirement is no longer meaningful, given the regulatory changes, as well as the changes Nasdaq has made to the way its market operates in the last 20 years. However, for each security in which they are registered, market makers would continue to be required to be willing to buy and sell the security for their own account on a continuous basis and at all times maintain a two-sided, attributable quotation that is displayed in the Nasdaq Quotation Montage. The Commission believes that the proposal is reasonable in that it mirrors the market maker definition set forth in section 3(a)(38) of the Act[6] and is consistent with market maker obligations contained in rules of other national securities exchanges.[7] Furthermore, the Commission notes that Nasdaq has represented that it will carefully monitor the performance of market makers to determine if the proposal has any impact on the extent to which market makers quote at or near the inside market.[8]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NASDAQ–2007–069), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22164 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78c(a)(38).

[7] *See, e.g.*, NYSE Arca Rule 7.23.

[8] In addition, the Commission notes that this rule change does not affect the market maker exception from the ''locate'' requirement of Regulation SHO under the Act. Rule 203(b)(2)(iii) of Regulation SHO provides an exception from the ''locate'' requirement for short sales executed by market makers, as defined in section 3(a)(38) of the Act, *but only in connection with bona-fide market making activities*.

To qualify for Regulation SHO's ''locate'' exception, a broker-dealer must be both a market maker in the specific security *and* engaged in bona fide market making at the time of the short sale for which the broker-dealer is claiming the exception. Thus, a broker-dealer's general status as a market maker or its status as a market maker in the security being sold short does not qualify it for the exception. Further, Regulation SHO's ''locate'' requirement applies on a transaction-by-transaction basis and, therefore, a market maker must determine whether it is engaged in bona fide market making for each short sale transaction. See Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008 (August 6, 2004).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56763; File No. SR–NYSEArca–2007–81]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Trade Shares of Funds of the Rydex ETF Trust Pursuant to Unlisted Trading Privileges

November 7, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 2, 2007, NYSE Arca, Inc. (the ''Exchange''), through its wholly-owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), 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. This order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through NYSE Arca Equities, proposes to trade shares (''Shares'') of 45 funds of the Rydex ETF Trust (''Trust'') based on numerous domestic indexes pursuant to unlisted trading privileges (''UTP''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under NYSE Arca Equities Rule 5.2(j)(3), which permits the trading of Shares either by listing or pursuant to UTP,[3] the Exchange proposes to trade pursuant to UTP shares of 45 funds of the Trust that are designated as Rydex Leveraged Funds (the ''Leveraged Funds''), Rydex Inverse Funds (the ''Inverse Funds''), and Rydex Leveraged Inverse Funds (the ''Leveraged Inverse Funds'' and together with the Leveraged Funds and Inverse Funds, the ''Funds''). The Commission has approved the listing and trading of the Shares on the American Stock Exchange LLC (''Amex'').[4] Each of the Funds will have a distinct investment objective by attempting, on a daily basis, to correspond to a specified multiple of the performance, or the inverse performance, of a particular equity securities index as described in the Amex Notice. A detailed discussion of the investment objective of each of the Funds; the portfolio management methodology for each of the Funds, including specific information about the portfolio composition for each Fund (*e.g.*, the ''IIV File'' and portfolio composition file or ''PCF''); the investment techniques for each of the Funds; the creation and redemption of baskets of Shares for each of the Funds; and the calculation methodology of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In October 1999, the Commission approved NYSE Arca Equities Rule 5.2(j)(3), which sets forth the rules related to listing and trading criteria for ''Investment Company Units''. *See* Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–1998–29). In July 2001, the Commission also approved the Exchange's generic listing standards for listing and trading, or the trading pursuant to UTP, of Investment Company Units under NYSE Arca Equities Rule 5.2(j)(3). *See* Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716–01 (July 19, 2001) (SR–PCX–2001–14). The definition of an Investment Company Unit is set forth in NYSE Arca Equities Rule 5.1(b)(15), which provides that an Investment Company Unit is a security representing an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

[4] *See* Securities Exchange Act Release No. 56713 (October 29, 2007) (SR–Amex–2007–74) (granting approval to list and trade the Shares on Amex) (''Amex Approval Order''); Securities Exchange Act Release No. 56218 (August 7, 2007), 72 FR 45469 (August 14, 2007) (SR–Amex–2007–74) (providing notice of Amex's proposal to list and trade the Shares (''Amex Notice'')).

net asset value (''NAV'') for each of the Funds, among other things, can be found in the Amex Notice.

The Funds will be based on the following benchmark indexes: (1) The S&P 500 Index; (2) the S&P MidCap 400 Index; (3) the S&P Small Cap 600 Index; (4) the Russell 1000 Index; (5) the Russell 2000 Index; (6) the Russell 3000 Index; (7) the S&P 500 Consumer Discretionary Index; (8) the S&P 500 Consumer Staples Index; (9) the S&P 500 Energy Index; (10) the S&P 500 Financials Index; (11) the S&P 500 HealthCare Index; (12) the S&P 500 Industrials Index; (13) the S&P 500 Information Technology Index; (14) the S&P 500 Materials Index; and (15) the S&P 500 Utilities Index (each index individually referred to as an ''Underlying Index,'' and all Underlying Indexes collectively referred to as the ''Underlying Indexes'').

As noted in the Amex Approval Order, quotations and last-sale information for the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CT''). In addition, the NAV per Share of each Fund will be calculated and disseminated daily.[5] To provide updated information relating to each Fund for use by investors, professionals, and persons wishing to create or redeem Shares, Amex will disseminate through CT and CQ High Speed Lines information with respect to an Indicative Intra-Day Value (''IIV'') at least every 15 seconds throughout Amex's trading day (as calculated by Amex),[6] market value of a Share for each Fund, recent NAV for each Fund, number of Shares outstanding for each Fund, and the estimated cash amount and total cash amount per Creation Unit.[7] Amex will also make available on its Web site daily trading volume, the closing prices, the NAV, and the final dividend amounts to be paid for each Fund.

In addition, the value of each Underlying Index will be updated intra-day on a real-time basis as its individual component securities change in price. These intra-day values of each Underlying Index will be disseminated at least every 15 seconds throughout the trading day by Amex or another organization authorized by the relevant Underlying Index provider. Several independent data vendors also package and disseminate Underlying Index data in various value-added formats (including vendors displaying both securities and Underlying Index levels and vendors displaying Underlying Index levels only).

The Trust's Web site (*http://www.rydexinvestments.com*) will contain the following information for each Fund's Shares: (1) The prior business day's closing NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV; (2) data for a period covering at least the four previous calendar quarters (or the life of a Fund, if shorter) indicating how frequently each Fund's Shares traded at a premium or discount to NAV based on the daily closing price and the closing NAV, and the magnitude of such premiums and discounts; (3) its prospectus and product description; and (4) other quantitative information, such as daily trading volume. The prospectus and/or product description for each Fund will inform investors that the Trust's Web site has information about the premiums and discounts at which the Fund's Shares have traded.

The Exchange represents that it will cease trading the Shares of the Fund if: (1) The listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12; or (2) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.[8] UTP trading in the Shares is also governed by the trading halts provisions of NYSE Arca Equities Rule 7.34 relating to temporary interruptions in the calculation or wide dissemination of the IIV or the value of the Underlying Index.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. Eastern Time (ET) to 8 p.m. ET. The Exchange states that it has appropriate rules to facilitate transactions in the Shares during all trading sessions.

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members or affiliates of the ISG. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares;[9] (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (4) how information regarding the IIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the registration statement for the Fund. The Bulletin will also

[5] *See* Amex Notice, 72 FR at 45477.

[6] A detailed discussion of the calculation methodology of the IIV for each of the Funds can be found in the Amex Notice. *See* Amex Notice, 72 FR at 45477.

[7] Each Fund will issue and redeem Shares only in aggregations of at least 50,000, each aggregation, a ''Creation Unit.'' *See* Amex Notice, 72 FR at 45474.

[8] The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) *The* extent to which trading is not occurring in the securities comprising an Underlying Index and/or the Financial Instruments (as defined in the Amex Notice) of a Fund, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares could be halted pursuant to the Exchange's ''circuit breaker'' rule or by the halt or suspension of trading of the underlying securities. *See* NYSE Arca Equities Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility).

[9] NYSE Arca Equities Rule 9.2(a) provides that an ETP Holder, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the rule provides, with a limited exception, that, prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that they believe would be useful to make a recommendation. *See* Securities Exchange Act Release No. 54045 (June 26, 2006), 71 FR 37971 (July 3, 2006) (SR–PCX–2005–115).

discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The proposal is consistent with section 6(b) of the Act,[10] in general, and section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In addition, the proposal is consistent with Rule 12f–5 under the Act[12] because the Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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 purpose 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–81 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–NYSEArca–2007–81. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2007–81 and should be submitted on or before December 5, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[14] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with section 12(f) of the Act,[15] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[16] The Commission notes that it previously approved the original listing and trading of the Shares on Amex.[17] The Commission finds that the proposal is consistent with Rule 12f–5 under the Act,[18] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with section 11A(a)(1)(C)(iii) of the Act,[19] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information for the Shares will be disseminated through the facilities of the CT. In addition, the NAV per Share of each Fund will be calculated and disseminated daily. Amex disseminates a variety of information through the facilities of the CT including the IIV per Share at least every 15 seconds throughout Amex's trading day, including the market value of a Share for each Fund, the recent NAV for each Fund, the number of Shares outstanding for each Fund, and the estimated cash amount and total cash amount per Creation Unit. Moreover, the value of each Underlying Index will be updated intra-day on a real-time basis as its individual

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 240.12f–5.

[13] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78*l*(f).

[16] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to *section* 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[17] *See supra* note 4.

[18] 17 CFR 240.12f–5.

[19] 15 U.S.C. 78k–1(a)(1)(C)(iii).

component securities change in price. These intra-day values of each Underlying Index will be disseminated at least every 15 seconds throughout the trading day by Amex or another organization authorized by the relevant Underlying Index provider. Finally, the Trust's Web site will provide various information, including data for at least the four previous calendar quarters (or the life of a Fund, if shorter) indicating how frequently each Fund's Shares traded at a premium or discount to NAV based on the daily closing price and the closing NAV, and the magnitude of such premiums and discounts.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. Existing NYSE Arca Equities Rule 7.34(a)(4), which will apply to the trading of the Shares, provides that, if the IIV is no longer calculated or disseminated as required (a) during the Opening Session (4 a.m. to 9:30 a.m. ET), the Exchange may continue to trade the Shares for the remainder of the Opening Session; (b) during the Core Trading Session (9:30 a.m. to 4 p.m. ET), the Exchange must halt trading in the Shares; and (c) during the Late Trading Session (4 p.m. to 8 p.m. ET), the Exchange may continue trading in the Shares only if the original listing market traded such Shares until the close of its regular trading session without halt. If the Indicative IIV continues not to be calculated or disseminated as of the next business day's Opening Session, the Exchange will not commence trading in the Shares in such Opening Session. The Exchange may resume trading in the Shares only if the calculation and dissemination of the IIV resumes, or trading in the Shares resumes in the original listing market.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange's surveillance procedures are adequate to address any concerns associated with the trading of the Shares on a UTP basis.

(2) The Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares, including risks inherent with trading the Shares during the Opening and Late Trading Sessions when the updated IIV is not calculated and disseminated and suitability recommendation requirements.

(3) The Exchange would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in such Shares and will note this prospectus delivery requirement in the Information Bulletin.

This approval order is based on the Exchange's representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously approved the original listing and trading of the Shares on Amex. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Shares on the Exchange pursuant to UTP. Accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such Shares.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NYSEArca–2007–81) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22150 Filed 11–13–07; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5966]

Announcement of Meetings of the International Telecommunication Advisory Committee

SUMMARY: This notice announces meetings of the International Telecommunication Advisory Committee (ITAC) to prepare advice on U.S. positions for working party meetings of the Organization for Economic Co-operation & Development (OECD) and for the meeting of the Permanent Executive Committee of Organization of American States Inter-American Telecommunication Commission (COM/CITEL).

The ITAC will meet to prepare for the OECD December 2007 meetings of the Working Parties on the Information Economy (WPIE) and Communication and Information Services Policy (CISP) on November 29, 2007, at the Harry S Truman building (Main State) of the Department of State, room 5804, 2–4 p.m. Eastern Time. A conference bridge will be provided. Meeting details will be posted on the mailing list *iccp-ps@eblist.state.gov.* People desiring to participate on this list may apply to the secretariat at *minardje@state.gov.*

The ITAC will meet to prepare for the COM/CITEL December 2007 meeting on November 27, 2007, 2–4 p.m. Eastern Time at a location in the Washington Metro Area. A conference bridge will be provided if requested. Meeting details will be posted on the mailing list *pcci-citel@eblist.state.gov.* People desiring to participate on this list may apply to the secretariat at *minardje@state.gov.*

The meetings are open to the public.

Dated: November 5, 2007.

Doreen McGirr,

International Communications & Information Policy, Department of State.

[FR Doc. E7–22193 Filed 11–13–07; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Solicitation of Applications for Fiscal Year (FY) 2008 Motor Carrier Safety Assistance Program (MCSAP) High Priority and New Entrant Grant Funding

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces that it has published an opportunity to apply for FY2008 MCSAP High Priority and New Entrant grant funding on the grants.gov Web site *(http://www.grants.gov).*

DATES: FMCSA will initially consider funding of applications submitted by January 5, 2008 by qualified applicants. If additional funding remains available, applications submitted after January 5, 2008 will be considered on a case-by-case basis. Funds will not be available for allocation until such time as FY2008 appropriations legislation is passed and signed into law. Funding is subject to reductions resulting from obligation limitations or rescissions as specified in SAFETEA–LU or other legislation.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kostelnik, Federal Motor Carrier Safety Administration, Office of Safety Programs, State Programs Division (MC–ESS), 202–366–5721, 1200 New Jersey

Avenue, SE., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., EST., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 4101 of SAFETEA-LU (Public Law 109–59, August 10, 2005, 119 Stat. 1144) amends 49 U.S.C. 31104(a) and authorizes the Motor Carrier Safety Grants funding for FY2006 through FY2009. The expected level of funding for MCSAP is $202,000,000 for FY2008, which includes up to $15,000,000 for High Priority grants and up to $29,000,000 for New Entrant Safety Audits. High priority funds are available for activities conducted by State agencies, local governments, and organizations *representing government agencies* that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. Funds are allocated in accordance with the provisions of 49 CFR 350.313 and 49 CFR 350.319. Further, FMCSA will reserve $5 million in FY2008 high priority funding exclusively for traffic enforcement projects, with particular emphasis on work zone enforcement and other selective traffic enforcement programs. States and local governments are eligible to apply for New Entrant funds. Funds are allocated in accordance with the provisions of 49 CFR 350.313 and 49 CFR 350.321. All applicants must submit an electronic application package through grants.gov. To apply using the grants.gov process, the applicant must be registered with grants.gov. To register, go to *http://www.grants.gov/applicants/get_registered.jsp*. The applicant must download the grant application package, complete the grant application package, and submit the completed grant application package. This can be done on the Internet at *http://www.grants.gov/applicants/apply_for_grants.jsp*. The CFDA number for MCSAP is 20.218.

Issued on: October 10, 2007.

William A. Quade,

Associate Administrator for Enforcement and Program Delivery.

[FR Doc. E7–22187 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Fayette Central Railroad (formerly Uniontown Central Railroad)

[Waiver Petition Docket Number FRA–2004–19999]

The Fayette Central Railroad (FCRV) seeks to renew a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR Part 223, which requires certified glazing in all windows. The existing waiver will expire on September 5, 2008.

This request is for two (2) cabooses, Car Numbers PC 18086 (built in 1946) and P&LE 504 (built in 1956), and one locomotive, BO9061 (previously UTCV 5656). The proposed routing of the operation is limited to approximately 20 miles of trackage between Green Junction and Smithfield, Pennsylvania, which is currently operated by the Southwest Pennsylvania Railroad and leased from Fayette-Penn. FCRV states that they use the cabooses four times a year for the town's festivals.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2004–19999) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility.

All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

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

Issued in Washington, DC, on November 7, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–22243 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Indiana Rail Road Company

[Waiver Petition Docket Number FRA–2007–29280]

The Indiana Rail Road Company (INRD) seeks a waiver of compliance from certain provisions of the Sanitation General Requirements, 49 CFR Section 229.137(a), which requires a compliant sanitation compartment for all lead locomotives. INRD states that the two locomotives that this waiver is being sought for will never operate in a consist alone as a lead locomotive. When in operation, the two specific locomotives, INRD 3801 and INRD 36, will always have a companion locomotive with a fully operational and compliant cab sanitation compartment for the operating crews use.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2007–29280) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

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

Issued in Washington, DC on November 7, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–22271 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Watco Companies, Inc.

[Waiver Petition Docket Number FRA–2007–27970]

The Pennsylvania Southern Railroad/Subsidiary of Watco Companies has petitioned the Federal Railroad Administration (FRA) to grant a waiver of compliance of the Safety Glazing Standards, 49 CFR Part 223, for three (3) switch locomotives, specifically PSW 431, 1200 and 1215. The three locomotives operate within a plant and do not exceed 10 miles per hour. There is no record of incidents or accidents pertaining to glazing and no record of vandalism. Operation is on other than main track and approximately 30 minutes per day, 5 days per week to the Norfolk Southern interchange point.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2007–27970) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

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

Issued in Washington, DC on November 7, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–22270 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 39]

Railroad Safety Advisory Committee (RSAC); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: The FRA is updating its announcement of RSAC's Working Group activities to reflect its current status.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6212 or Grady Cothen, Deputy Associate Administrator for Safety, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports of October

30, 2007, in Vol. 72, No. 209/Notices. In the section of the update under the heading of Task 06–03: Medical Standards for Safety-Critical Personnel, an incorrect meeting date was published.

The correct meeting date for the next Medical Standards for Safety-Critical Personnel working group is December 4–5, 2007, and not December 3–4, 2007, as originally published.

Issued in Washington, DC, on November 7, 2007.

Michael J. Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. E7–22208 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007 0012]

Determination of Foreign Reconstruction or Rebuilding of U.S.-Built Vessels That Participate in the Capital Construction Fund and Cargo Preference Programs

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice and Request for Comments.

SUMMARY: The Maritime Administration seeks public comment on what standards the Maritime Administration should apply when making determinations of foreign reconstruction of U.S.-built vessels that participate in the Capital Construction Fund program and foreign rebuilding of U.S.-built vessels that participate in the cargo preference program.

DATES: Comments are due January 14, 2008.

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

- *Web Site: http://regulations.gov*. Follow the instructions for submitting comments on the Federal Dockets Management System (FDMS) electronic docket site.
- *Mail*: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590–0001. Faxed or hand-delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. Mailed submissions requiring confirmation of receipt should include a stamped, self-addressed postcard or envelope.
- *Hand Delivery*: Plaza level of Department of Transportation Headquarters, 1200 New Jersey Ave., SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this action. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the FDMS Web site (*http://regulations.gov*), and will include any personal information provided. Therefore, submitting this information makes it public. Please read the Privacy Act notice that is available on the FDMS Web site, or the Department of Transportation Privacy Act statement that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477).

Docket: For access to the docket to read background documents or comments received, go to *http://regulations.gov*.

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

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Chief, Division of Maritime Programs, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; Ph. (202) 366–5320, fax: (202) 366–5123; or e-mail *murray.bloom@dot.gov*.

SUPPLEMENTARY INFORMATION: There are three maritime promotional statutes that mandate the use of U.S.-built vessels and generally provide that a U.S.-built vessel becomes ineligible if the vessel is reconstructed or rebuilt in a foreign country.

1. Section 12132(b) of title 46, United States Code, provides that a vessel eligible to engage in the U.S. coastwise trade and later rebuilt outside the United States may no longer engage in the coastwise trade. This statute is administered by the U.S. Coast Guard.

2. Chapter 535 of title 46, United States Code, established the Capital Construction Fund (CCF) program, whereby a U.S. citizen owner of an eligible vessel may defer Federal income taxes on income derived from the operation of eligible vessels to the extent that income is deposited into a fund to be used solely for the acquisition, construction or reconstruction of qualified vessels. The statutory definitions of both ''eligible'' and ''qualified'' vessels require such vessels, if reconstructed, to be reconstructed in the United States. The Maritime Administration administers the CCF program (except for the CCF applicable to fishery vessels administered by the National Oceanic and Atmospheric Administration) under regulations located at 46 CFR 390.

3. Chapter 553 of title 46, United States Code, provides that preference be given in the carriage of U.S. Government-impelled cargoes to ''privately-owned commercial vessels of the United States.'' That term is defined by statute as excluding a vessel rebuilt in a foreign country, unless the vessel shall have been documented under U.S. registry for at least three years. The shippers responsible for shipping cargo subject to the cargo preference statutes do so under regulations issued by the Maritime Administration at 46 CFR Part 381.

These three statutes raise difficult problems of interpretation and enforcement. The Maritime Administration will consider any and all comments as to how the Maritime Administration should administer the programs assigned to it. However, in order to focus the discussion, we suggest that submitters of comments respond to the following questions:

1. What substantive standards should the Maritime Administration apply to determine whether a CCF vessel has been reconstructed or a cargo preference vessel has been rebuilt?

2. What procedures should the Maritime Administration adopt to investigate whether a CCF vessel has been reconstructed or a cargo preference vessel has been rebuilt?

3. What role, if any, should unrelated third parties, such as competitors or shipyards, play in developing a record for decision on whether a CCF vessel has been reconstructed or a cargo preference vessel has been rebuilt?

4. What public disclosure criteria should apply to the record for decision on whether a CCF vessel has been reconstructed or a cargo preference vessel has been rebuilt?

Authority: 49 CFR 1.66.

Dated: November 7, 2007.

By Order of the Maritime Administrator.

Christine S. Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E7–22189 Filed 11–13–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Bank Secrecy Act Advisory Group; Solicitation of Application for Membership

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Notice and request for nominations.

SUMMARY: FinCEN is inviting the public to nominate financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

DATES: Nominations must be received by December 14, 2007.

ADDRESSES: Applications may be mailed (not sent by facsimile) to Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183 or e-mailed to: *BSAAG@fincen.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer White, Regulatory Outreach Specialist at 202–354–6400.

SUPPLEMENTARY INFORMATION: The Annunzio-Wylie Anti-Money Laundering Act of 1992 required the Secretary of the Treasury to establish a Bank Secrecy Act Advisory Group (BSAAG) consisting of representatives from federal regulatory and law enforcement agencies, financial institutions, and trade groups' subject to the reporting requirements of the Bank Secrecy Act, 31 CFR 103 *et seq.* or Section 6050I of the Internal Revenue Code of 1986. The BSAAG is the means by which the Secretary receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Ultimately, the BSAAG will make policy recommendations to the Secretary on issues considered.

BSAAG membership is open to financial institutions and trade groups. New members will be selected to serve a three-year term. It is important to provide complete answers to the following items, as applications will be evaluated on the information provided through this application process. Applications should consist of:

- Name of the organization requesting membership.
- Point of contact, title, address, e-mail address, phone number.
- The BSAAG vacancy for which the organization is applying.
- Description of the financial institution or trade group and its involvement with the Bank Secrecy Act, 31 CFR 103 *et seq.*
- Reasons why the organization's participation on the BSAAG will bring value to the group.

Organizations may nominate themselves, but applications for individuals who are not representing an organization will not be considered. FinCEN is interested in bringing representatives from state regulatory agencies, state regulator trade groups, self-regulatory organizations, industry trade groups, and industry members together with federal law enforcement and federal regulatory agencies to help advise the Secretary of the Treasury on matters relating to the administration of the Bank Secrecy Act. Members must be able and willing to make the necessary time commitment to participate on sub-committees throughout the year by phone and attend biannual plenary meetings held in Washington, DC in the spring and fall. Members will not be remunerated for their time, services, or travel. In making the selections, FinCEN will seek to complement current BSAAG members in terms of affiliation, industry, and geographic representation. The Director of FinCEN retains full discretion on all membership decisions. The Director may consider prior years' applications when making selections and does not limit consideration to institutions nominated by the public when making its selection. Based on current BSAAG position openings we encourage applications from the following sectors or types of organizations with experience working on the Bank Secrecy Act:

- Self-Regulatory Organizations (2 vacancies).
- State Governments (1 vacancy).
- Industry Trade Groups—Banking Sector (1 vacancy).
- Industry Trade Groups—State Level (1 vacancy).
- Industry Trade Groups—International (1 vacancy).
- Industry Trade Groups—Money Services Business Sector (1 vacancy).
- Industry Trade Groups—Securities (1 vacancy).
- Industry Trade Groups—Mutual Funds (1 vacancy).
- Industry Trade Groups—Investment Companies (1 vacancy).
- Industry Representatives—Banking (2 vacancies).
- Industry Representatives—Stored Value (1 vacancy).
- Industry Representatives—Securities/ Futures (1 vacancy).

Dated: November 6, 2007.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. E7–22181 Filed 11–13–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Southwest Marine and General Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 4 to the Treasury Department Circular 570, 2007 Revision, published July 2, 2007, at 72 FR 36192.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following company:

Southwest Marine and General Insurance Company (NAIC #12294). Business Address: 919 Third Avenue, New York, NY 10022. Phone: (212) 551–0600. Underwriting Limitation b/: $2,503,000. Surety Licenses c/: AZ. Incorporated in Arizona.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 (''Circular''), 2007 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1 in the Circular, which outlines details as to underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: November 5, 2007.

Vivian L. Cooper,

Director, Financial Accounting and Services Division.

[FR Doc. 07–5639 Filed 11–13–07; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Amendment—Swiss Reinsurance America Corporation

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 3 to the Treasury Department Circular 570, 2007 Revision, published July 2, 2007, at 72 FR 36192.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: The underwriting limitation for Swiss Reinsurance America Corporation, which was listed in the Treasury Department Circular 570, published on July 2, 2007, is hereby amended to read $364,914,000. Federal bond-approving officers should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2007 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: October 31, 2007.

Vivian L. Cooper,

Director, Financial Accounting and Services Division.

[FR Doc. 07–5640 Filed 11–13–07; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8849

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8849, Claim for Refund of Excise Taxes.

DATES: Written comments should be received on or January 14, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claim for Refund of Excise Taxes.

OMB Number: 1545–1420.

Form Number: 8849.

Abstract: IRC Sections 6402, 6404, 6511 and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit or interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 8849 is used by taxpayers to claim refunds of excise taxes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 125,292.

Estimated Time per Respondent: 24 hours, 12 minutes.

Estimated Total Annual Burden Hours: 3,032,611.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 5, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–22134 Filed 11–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–56

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–56, Demonstration Automobile Use.

DATES: Written comments should be received on or before January 14, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution, Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Demonstration Automobile Use.

OMB Number: 1545–1756.

Revenue Procedure Number: Revenue Procedure 2001–56.

Abstract: Revenue Procedure 2001–56 provides optional simplified methods for determining the value of the use of demonstration automobiles provided to employees by automobile dealerships.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–22135 Filed 11–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0675]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Office of Small and Disadvantaged Business Utilization (OSDBU), 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 14, 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. 2900–0675'' in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, Fax (202) 461–0443 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0675.''

SUPPLEMENTARY INFORMATION:

Title: VetBiz Vendor Information Pages and VA Form 0877.

OMB Control Number: 2900–0675.

Type of Review: Extension of a currently approved collection.

Abstract: The Vendor Information Pages (VIP) will be used to assist federal agencies in identifying small businesses owned and controlled by veterans and service-connected disabled veterans. This information is necessary to ensure that veteran-owned businesses are given the opportunity to participate in Federal contracts and receive contract solicitations information automatically. VA will use the data collected on VA Form 0877 to verify small businesses as veteran-owned or service-disabled veteran-owned.

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 September 6, 2007 at pages 51303–51304.

Affected Public: Business or other for-profit, and individuals or households.

Estimated Annual Burden: 5,000 hours.

Estimated Average Burden Per Respondent:

VetBiz Vendor Information Pages—20 minutes.

VA Form 0877—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 12,000.

Dated: November 6, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–22209 Filed 11–13–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0045]

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 14, 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. 2900–0045'' 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) 461–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0045.''

SUPPLEMENTARY INFORMATION:

Title: VA Request for Determination of Reasonable Value VA Form 26–1805 and 26–1805–1.

OMB Control Number: 2900–0045.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 26–1805 and 26–1805–1 are used to identify properties to be appraised and to make assignments to an appraiser. VA home loans cannot be guaranteed or made unless the nature and conditions of the property is suitable for dwelling purposes is determined; the loan amount to be paid by the veteran for such property for the cost of construction, repairs, or alterations does not exceed the reasonable value; or if the loan is for repair, alteration, or improvements of property, the work substantially protects or improves the basic livability of the property. VA or the lender's participating in the lender appraisal processing program issues a notice of values to notify the veteran and requester of the determination of reasonable value and any conditional requirements.

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 September 6, 2007, at page 51304.

Affected Public: Individuals or households.

Estimated Annual Burden: 60,000 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 300,000.

Dated: November 6, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–22211 Filed 11–13–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
November 14, 2007

Part II

The President

Proclamation 8202—World Freedom Day, 2007

Federal Register
Vol. 72, No. 219
Wednesday, November 14, 2007

Presidential Documents

Title 3—

The President

Proclamation 8202 of November 8, 2007

World Freedom Day, 2007

By the President of the United States of America

A Proclamation

On World Freedom Day, we commemorate the fall of the Berlin Wall and reaffirm our conviction that freedom is the inalienable right of every man, woman, and child.

On November 9, 1989, the Berlin Wall fell—a triumph of freedom over those who denied hope and opportunity to millions. The collapse of this barrier signaled the demise of the Soviet empire and ushered in a new era of liberty for much of Central and Eastern Europe. In the end, tyranny was overpowered by ordinary people who wanted to live their lives freely, worship God freely, and speak the truth to their children. With moral clarity and courage, brave individuals can change the course of history.

Our Nation remains committed to the advance of freedom and democracy as the great alternatives to repression and radicalism. America calls on every country that stifles dissent to end its repression, to trust its people, and to grant its citizens the liberty they deserve.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 9, 2007, as World Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities, reaffirming our dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 07–5701
Filed 11–13–07; 9:52 am]
Billing code 3195–01–P

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LIST OF PUBLIC LAWS

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Passed over the President's veto:

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Water Resources Development Act of 2007 (Nov. 8, 2007; 121 Stat. 1041)

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