11–16–07 Friday
Vol. 72 No. 221 Nov. 16, 2007

Pages 64523–64918

Federal Register

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

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

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

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

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

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

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

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

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

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

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

SUBSCRIPTIONS AND COPIES

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

Printed on recycled paper.

Contents

Federal Register

Vol. 72, No. 221

Friday, November 16, 2007

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
NOTICES
Meetings:
Expert Review of Synthesis and Assessment Product 4.3 Advisory Committee, 64574

Animal and Plant Health Inspection Service
PROPOSED RULES
Agricultural Bioterrorism Protection Act of 2002; implementation:
Select agent and toxin list; biennial review and republication, 64540

Army Department
See Engineers Corps
RULES
Publication of rules affecting public; requirements and policies; withdrawn, 64538

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities; proposals, submissions, and approvals; correction, 64650–64653

Centers for Medicare & Medicaid Services
PROPOSED RULES
Medicare:
Electronic Prescription Drug Program; E-prescribing, 64900–64918
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64653–64654

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64654–64655

Coast Guard
NOTICES
Meetings:
Great Lakes Regional Waterways Management Forum, 64662

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 64576–64577

Defense Department
See Army Department
See Engineers Corps
See Navy Department
RULES
Civilian health and medical program of the uniformed services (CHAMPUS):
TRICARE program—
Retiree Dental Program; overseas locations expansion, 64536–64538
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 64587

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Almac Clinical Services Inc., 64672
American Radiolabeled Chemical, Inc., 64672–64673
Amri Rensselaer, Inc., 64673
Applied Science Labs, 64673–64674
Aptuit, 64674
Archimica, Inc., 64674–64675
Austin Pharma LLC, 64675
Boehringer Ingelheim Chemicals, Inc., 64675–64676
Cambrex Charles City, Inc., 64676
Cambrex North Brunswick, Inc., 64676–64677
Cambridge Isotope Lab, 64677
Cody Laboratories, 64677–64678
Dade Behring Inc., 64678
Fisher Clinical Services Inc., 64678–64679
Formulation Technologies LLC, 64679
Isotec, 64679–64680
JFC Technologies, LLC, 64680–64681
Johnson Matthey Inc., 64681
Knoll Pharmaceutical Co., 64681
Lin Zhi International Inc., 64681–64682
Lonza Riverside, 64682
National Center for Natural Products Research -NIDA MProject, University of Mississippi, 64682
Rhodes Technologies, 64682–64683
Siegfried (USA), Inc., 64683
Sigma Aldrich Research Biochemicals, Inc., 64683–64684
Stepan Co., 64684
Tocris Cookson, Inc., 64684–64685

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64588–64590

Employee Benefits Security Administration
RULES
Employee Retirement Income Security Act:
Annual reporting and disclosure, 64710–64730
NOTICES
Employee Retirement Income Security Act:
Annual information return reports forms; revision, 64731–64857

Employment and Training Administration
NOTICES
Adjustment assistance; applications, determinations, etc.:
Honeywell Sensing and Control, 64685

Non-Metallic Components, Inc., 64685

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Electricity export and import authorizations, permits, etc.:
Royal Bank of Scotland plc, 64590–64591
Environmental statements; availability, etc.:
Western States designated as energy corridors; public hearings, 64591–64596

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Rueter-Hess Reservoir Expansion Project, CO, 64587–64588

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
Volatile organic compounds (VOC)—
Synthetic organic chemicals manufacturing industry and petroleum refineries; equipment leaks, 64860–64897
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Pendimethalin, 64538–64539
PROPOSED RULES
Air programs:
Outer Continental Shelf regulations—
California; consistency update, 64563–64570
Air programs:
Aircraft and aircraft engines—
General aviation aircraft; lead emissions limitation, 64570–64573
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64609–64617
Environmental statements; availability, etc.:
Agency comment availability, 64617–64618
Agency weekly receipts, 64618–64619
Meetings:
Science Advisory Board, 64619–64620
Pesticide programs:
Special reviews—
Ethyl parathion, 64621–64623
Oxydemeton-methyl, 64620–64621
Pesticide registration, cancellation, etc.:
M-44 sodium cyanide capsules and sodium fluoroacetate (compound 1080), 64623–64624
Pesticides:
Risk assessments—
Endosulfan, 64624–64626
Reports and guidance documents; availability, etc.:
Framework for determining a mutagenic mode of action for carcinogenicity; ... assessing susceptiblity from early-life exposure to carcinogens, 64617
Toxic and hazardous substances control:
Integrated Risk Information System—
1,2,3-trichloropropane; toxicological review in support of summary information, 64626–64627

Equal Employment Opportunity Commission
NOTICES
Senior Executive Service Performance Review Board; membership, 64627

Executive Office of the President
See Trade Representative, Office of United States

Export-Import Bank
NOTICES
Meetings; Sunshine Act, 64627–64628

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 64532–64533
Airworthiness standards:
Special conditions—
DynCorp International, 64529–64532
Standard instrument approach procedures, 64533–64536
PROPOSED RULES
Airworthiness directives:
Bell Helicopter Textron Canada, 64540–64545
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64696–64697

Federal Communications Commission
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 64628

Federal Energy Regulatory Commission
NOTICES
Complaints filed:
Wisconsin Public Service Corp., 64598
Electric rate and corporate regulation combined filings, 64598–64603
Hydroelectric applications, 64603–64609
Applications, hearings, determinations, etc.:
Floridian Natural Gas Storage Co., LLC, 64596–64597
NedPower Mount Storm, LLC, 64597
New England Power Co., 64598

Federal Highway Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Truck Parking Initiative, 64697–64700
Meetings:
Motorcyclist Advisory Council, 64700–64701

Federal Housing Finance Board
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64628–64645

Federal Reserve System
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64645
Banks and bank holding companies:
Formations, acquisitions, and mergers, 64645–64646

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, determinations, etc., 64665

Forest Service
NOTICES
Environmental statements; notice of intent:
White River National Forest, CO, 64574–64576

General Services Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64646–64650
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 64587

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See Transportation Security Administration
See U.S. Customs and Border Protection
NOTICES
Meetings:
Homeland Security Science and Technology Advisory Committee, 64661–64662

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties, 64664

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Indian Gaming Commission
See Reclamation Bureau

Internal Revenue Service
PROPOSED RULES
Income taxes:
Benefit restrictions; underfunded pension plans Correction, 64708
Corporate reorganizations and tax-free liquidations; accounting method changes, 64545–64558
NOTICES
Employee Retirement Income Security Act:
Annual information return reports forms; revision, 64731–64857

International Trade Administration
NOTICES
Antidumping:
Ball bearings and parts from—
Japan and United Kingdom, 64578–64579
Various countries, 64577–64578
Canned pineapple fruit from—
Thailand, 64579
Fresh garlic from—
China, 64579–64580
Honey from—
China, 64580
Polyethylene retail carrier bags from—
Thailand, 64580–64582
Purified carboxymethylcellulose from—
Netherlands, 64582–64583
Steel concrete reinforcing bars from—
Turkey, 64583–64584
Countervailing duties:
Polyethylene terephthalate film from—
India, 64584
Applications, hearings, determinations, etc.:
Penn State University, 64584

Justice Department
See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
Belle Tire Distr., Inc., et al., 64669
Hercules Inc., 64669–64670
Honeywell International Inc., 64670
Honeywell International, Inc., et al., 64670–64671
Kansas City Southern Ry. Co., 64671
Mimms, Kenneth L., et al., 64671
Stauffer Management Co. LLC and Bayer CropScience Inc., 64671–64672

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration

Land Management Bureau
NOTICES
Closure of public lands:
Arizona, 64665–64666
Environmental statements; availability, etc.:
Bald Mountain Ski Resort, ID; master development plan, 64666–64667
Smoky Canyon Mine, Panels F and G, Caribou-Targhee National Forest, ID, 64667
Western States designated as energy corridors; public hearings, 64591–64596
Meetings:
Resource Advisory Councils—
Arizona, 64668
Realty actions; sales, leases, etc.:
New Mexico, 64668–64669

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 64587

National Archives and Records Administration
PROPOSED RULES
Public availability and use:
Agency information and production of records in legal proceedings; testimony by NARA employees, 64558–64563

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Graco Children's Products, Inc.; correction, 64708

National Indian Gaming Commission
PROPOSED RULES
Indian Gaming Regulatory Act, etc.:
Electronic or electromechanical facsimile definition, etc.; comment periods extended, 64545

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 64655–64656
National Center for Complementary and Alternative Medicine, 64656
National Eye Institute, 64656

National Institute of Allergy and Infectious Diseases, 64660
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 64659
National Institute of Child Health and Human Development, 64658–64660
National Institute of Diabetes and Digestive and Kidney Diseases, 64660–64661
National Institute of Environmental Health Sciences, 64657–64659
National Institute on Alcohol Abuse and Alcoholism, 64659–64660
Scientific Review Center, 64661

National Oceanic and Atmospheric Administration
NOTICES
Endangered and threatened species:
Critical habitat designations—
Loggerhead turtle, 64585–64587
Endangered and threatened species permit applications, determinations, etc., 64584–64585
Meetings:
South Atlantic Fishery Management Council, 64587

National Science Foundation
NOTICES
Meetings:
Business and Operations Advisory Committee, 64685

Navy Department
RULES
Privacy Act; implementation, 64538

Nuclear Regulatory Commission
RULES
Practice and procedure:
Electronic submissions use in agency hearings Correction, 64529
NOTICES
Applications, hearings, determinations, etc.:
Southern Nuclear Operating Co., 64686–64687

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension Benefit Guaranty Corporation
NOTICES
Employee Retirement Income Security Act:
Annual information return reports forms; revision, 64731–64857

Personnel Management Office
RULES
Federal Workforce Flexibility Act of 2004; implementation:
Retention incentives, 64523–64528

Reclamation Bureau
NOTICES
Water resources planning; discount rate change, 64669

Securities and Exchange Commission
NOTICES
Securities Exchange Act:
Broker-dealer registration requirements, etc.; exemptions—
National Association of Realtors, 64688–64694
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 64694–64696

State Department
NOTICES
Culturally significant objects imported for exhibition:
Gerome and Dahl; assorted paintings, 64696

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
BNSF Railway Co. and BNSF Acquisition, Inc., 64701
Maryland Midland Railway, Inc., 64702
Maryland Transit Administration, 64702–64703
Railroad services abandonment:
Everett Railroad Co., 64703
Portland Terminal Co. et al, 64703–64704
Willamette Valley Railway Co., 64704–64705

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Kaiser Federal Bank et al., 64705

Trade Representative, Office of United States
NOTICES
World Trade Organization:
Dispute settlement panel proceedings—
European Communities; laws, regulations, and methodology for calculating dumping margins (zeroing), 64687–64688

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Transportation Security Administration
NOTICES
Maritime and land transportation security:
Transportation Worker Identification Credential; enrollment—
Dundalk, MD, et al., 64662–64663

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office
See United States Mint

U.S. Customs and Border Protection
NOTICES
Environmental statements; availability, etc.:
Border Patrol Office; tactical infrastructure construction, operation, etc.—
Rio Grande Valley sector, TX, 64663–64664

United States Mint
NOTICES
Dolly Madison first spouse gold coins; price increase, 64705

Veterans Affairs Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 64705–64707

Separate Parts In This Issue

Part II
Labor Department, Employee Benefits Security Administration, 64710–64730

Part II
Labor Department, Employee Benefits Security Administration; Pension Benefit Guaranty Corporation; Treasury Department, Internal Revenue Service, 64731–64857

Part III
Environmental Protection Agency, 64860–64897

Part IV
Health and Human Services Department, Centers for Medicare & Medicaid Services, 64900–64918

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
575.....64523

7 CFR
Proposed Rules:
331.....64540

9 CFR
Proposed Rules:
121.....64540

10 CFR
2.....64529
13.....64529

14 CFR
21.....64529
29.....64529
39.....64532
97 (2 documents) 64533, 64534

Proposed Rules:
39 (2 documents) 64540, 64542

25 CFR
Proposed Rules:
502.....64545
542.....64545
543.....64545
546.....64545
547.....64545

26 CFR
Proposed Rules:
1 (2 documents) 64545, 64708

29 CFR
2520.....64710

32 CFR
199.....64536
519.....64538
701.....64538

36 CFR
Proposed Rules:
1250.....64558
1251.....64558
1256.....64558

40 CFR
60.....64860
63.....64860
180.....64538

Proposed Rules:
55.....64563
87.....64570

42 CFR
Proposed Rules:
423.....64900

Rules and Regulations

Federal Register
Vol. 72, No. 221
Friday, November 16, 2007

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 575

RIN 3206–AL41

Retention Incentives

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing final regulations to implement a provision of the Federal Workforce Flexibility Act of 2004 granting agencies additional flexibility to pay retention incentives. The final regulations permit an agency to pay a retention incentive to an employee who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office, facility, activity, or organization. The final regulations provide agencies with additional flexibility to help retain employees critical to important agency missions and better meet strategic human capital needs.

DATES: *Effective Date:* The final regulations will become effective on December 17, 2007.

Applicability Date: The final regulations apply to retention incentives authorized under 5 U.S.C. 5754 and 5 CFR 575.315 on the first day of the first pay period beginning on or after December 17, 2007.

FOR FURTHER INFORMATION CONTACT: Jeanne Jacobson by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov*.

SUPPLEMENTARY INFORMATION: On May 13, 2005, the U.S. Office of Personnel Management (OPM) published interim regulations (70 FR 25732) to implement section 101 of the Federal Workforce Flexibility Act of 2004 (Pub. L. 108–411, October 30, 2004). Section 101 amended 5 U.S.C. 5753 and 5754 by providing a new authority to make recruitment, relocation, and retention payments. The amended law replaced the former recruitment and relocation bonus and retention allowance authority provided by 5 U.S.C. 5753 and 5754. The 60-day comment period for the interim regulations ended on July 12, 2005.

The Supplementary Information for the interim regulations posed a number of questions about whether the final regulations should provide agencies with the authority to pay recruitment incentives to help recruit current employees (as authorized by 5 U.S.C. 5753(b) under conditions that would be described in OPM regulations) and to pay retention incentives to help retain employees likely to leave for a different position in the Federal service (as authorized by 5 U.S.C. 5754(b) under conditions that would be described in OPM regulations) and, if so, under what circumstances. This **Federal Register** notice addresses the comments we received in response to the questions regarding retention incentives. The comments we received in response to the questions regarding recruitment incentives are not addressed in these final regulations, but will be addressed in a future **Federal Register** notice.

These final regulations provide agencies with the discretionary authority to pay a retention incentive to an employee who, in the absence of such an incentive, would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office, facility, activity, or organization. The comments on the situations proposed in the interim regulations and the changes made in these final regulations relating to the use of retention incentives are discussed further in the following sections of this Supplementary Information.

Comments on Retention Incentives for Employees Likely to Leave for a Different Position in the Federal Service

Section 5754(b) of title 5, United States Code, allows OPM to authorize the head of an agency to pay retention incentives to employees who, in the absence of an incentive, would be likely to leave their positions for a different position in the Federal service under the conditions described in OPM's regulations. In recognition that costly and inefficient interagency competition could occur if agencies are permitted to pay retention incentives in this manner, in the May 13, 2005, interim regulations, we asked for comments on the following circumstances in which agencies could grant a retention incentive to encourage employees to stay in their current position and not move to another Federal agency:

- Would it be desirable to allow an agency to offer a retention incentive to a current employee when the head of that agency determines that the loss of the employee's unique competencies (i.e., knowledge, skills, abilities, behaviors, and other characteristics) required for the position would adversely affect the successful accomplishment of an important agency mission or the completion of a critical project?
- Would it be desirable to allow an agency to offer a retention incentive to a current employee when the offered position is under a pay system that differs from the pay system of the employee's position before the move and the head of that agency determines that the loss of the employee in the current position would adversely affect the successful accomplishment of an important agency mission or the completion of a critical project?
- Would it be desirable to allow an agency to offer a retention incentive when the employee's position requires him or her to work under unusually severe or arduous working conditions (e.g., an extreme climate; unreliable essential services, such as basic utility or telecommunication services; or other harsh conditions) that the agency cannot control and the head of that agency has determined that these conditions have a significant negative effect on the agency's ability to retain that employee at the worksite?
- Would it be desirable to allow an agency to offer a retention incentive to a current employee in order to retain an employee who is likely to leave his or her position for another Federal position before the closure or relocation of the employee's office or facility and the head of that agency has determined that the employee's services are critical to the successful closure or relocation?

OPM also invited comments on whether the regulations should limit the payment of a retention incentive in any

of the circumstances listed above to only those employees whose rating of record is at the highest level under the applicable performance appraisal or evaluation system.

We received mixed reactions to the situations proposed in the previous bullets for paying a retention incentive to an employee who would be likely to leave for a different position in the Federal service in the absence of such an incentive. Some commenters expressed concerns about possible bidding wars and increased costs to the Government of the proposed retention incentive flexibility; controlling the use of the flexibility; and the need for adequate funding and specific payment criteria, accountability measures, and a trial period to prevent abuse. Finally, several agencies noted authorities already exist to compensate for working under difficult conditions, such as post differentials, hazardous duty pay, and environmental differential pay, and the proposed retention incentive authority is not needed for these purposes.

However, some commenters also stated the flexibility to pay retention incentives to employees who would be likely to leave for a different position in the Federal service would help agencies retain knowledgeable, skilled, and experienced employees to finish work on critical projects and train replacement employees. One agency stated the use of this flexibility would help avoid (1) the cost of recruiting for unique skill sets, (2) the inability to get the job done after the employee leaves and prior to a replacement coming on board, and (3) the risk of not being able to fill the position at all. Another agency noted, while there are concerns about bidding wars, it is a fact that agencies are in competition with one another as well as private sector employers for the most talented employees, and additional pay flexibility is desirable to meet these needs.

Commenters provided a number of suggestions for additional criteria to use when authorizing a retention incentive for an employee who would be likely to leave for a different position in the Federal service. Some stated any payment criteria should focus on the employee's unique competencies, and the type of pay system and working conditions should not be a deciding factor in determining whether to offer a retention incentive. One agency felt the payment criteria should be written broadly to cover any of the proposed situations, but acknowledged the nature of the relevant pay systems may be an issue for consideration in authorizing a retention incentive. Another stated payment of a retention incentive should be based on staffing needs related to a ''critical agency mission,'' rather than just an ''important agency mission,'' and an agency should determine the critical agency mission or project would likely fail without the employee's services. Other suggestions for the regulations included requiring an employee to have an offer of other employment in hand before a retention incentive is paid, limiting the length of service agreements, ensuring service agreements make clear the retention incentive will be terminated when the critical project or program is complete, limiting the payment of a retention incentive to a lump-sum payment at the end of the service period (rather than biweekly or other installment payments), and establishing additional retention incentive flexibility for a trial period during which compliance with the regulations would be closely monitored.

Regarding the question as to whether the regulations should limit the payment of a retention incentive to only those employees whose rating of record is at the highest level under the applicable performance appraisal or evaluation system, commenters overwhelmingly objected to this proposed requirement. Commenters felt the needs of agencies and the employee's capabilities should be the determining factors in deciding whether to pay an incentive and that including such a limit in the regulations would be a disservice to the office attempting to meet a critical mission need or project. They pointed out that an employee with a ''Fully Successful'' rating might have the competencies or experience that are essential for the agency to attract or retain. Another commenter agreed an employee's performance level must be a factor when determining whether an incentive should be paid to an employee and suggested the performance level be limited to at least ''Fully Successful'' (or equivalent) consistent with other recruitment, relocation, and retention incentive provisions.

Response to Comments

Ensuring agencies have an effective civilian workforce to achieve their goals is one of the primary objectives of strategic human capital management in the Government. To meet this objective, agencies must have the necessary human resources tools to retain essential employees to perform mission-critical work. The retention incentive authority is one of several tools providing agencies substantial flexibility to pay additional compensation to help retain key employees.

We carefully considered the comments received on the circumstances proposed in the interim regulations under which agencies would be allowed to pay a retention incentive to an employee who would be likely to leave for a different position in the Federal service in the absence of an incentive. In determining whether to provide additional retention incentive flexibility, we must balance the workforce needs of a single agency with the workforce needs of other agencies. An employee providing valuable services to one agency also may possess the competencies that are valuable to another agency.

We also need to be cautious when establishing new flexibilities that have the potential to result in costly and inefficient interagency competition. We agree with several of the commenters who expressed concerns about controlling any increased retention incentive flexibility and possible bidding wars between agencies. The regulations must include the appropriate approval criteria, controls, and monitoring and reporting requirements to help ensure agencies continue to use the retention incentive authority judiciously and responsibly.

In light of these concerns and the issues identified by commenters, we have not amended the regulations to establish a broad authority to pay a retention incentive to an employee who would be likely to leave for a different position in the Federal service in the absence of the incentive. We understand interagency compensation already exists and some agencies are disadvantaged because other agencies have the flexibility to pay higher salaries. However, we must balance single agency needs against the Governmentwide interest of avoiding costly and inefficient interagency competition.

In this regard, these final regulations provide agencies with the authority to pay a retention incentive to an employee who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office, facility, activity, or organization. The need to retain employees when facilities are closing or relocating is especially acute. Such employees may be more likely than others to seek other Federal employment, especially if they will otherwise be separated from Federal service when their office or facility closes or if they cannot relocate with their office or facility. At the same time, agencies typically must continue to perform mission-critical work at sites subject to closure and relocation.

Recruiting and training employees to replace those who leave may not be a viable or cost-effective option. While this final regulation does not provide agencies the flexibility to pay retention incentives in all the circumstances proposed in the interim regulations, it will provide OPM an opportunity to monitor the effects of such pay flexibility on interagency competition and compensation costs in narrow closure and relocation situations to determine if the flexibility should be expanded.

In addition, no commenters objected to providing the authority to pay retention incentives to employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office or facility. Of those who commented on this specific proposal, all agreed such flexibility should be provided. Some commenters noted the importance of retaining employees with critical skills before a closure or relocation. One agency stressed the importance of maintaining operations and retaining needed expertise in such situations. Another recognized retention incentives alone may not be adequate to retain the services of employees facing eventual separation, but they might be of benefit in certain circumstances.

One agency stated the use of retention incentives for employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office or facility would require coordination between the losing and gaining agencies to ensure the employee is not harmed. We do not agree that coordination between the gaining and losing agency is necessary. The service agreement signed by the employee will define the terms and conditions of the employee's retention incentive.

The same agency noted in closure and relocation situations, reduction in force procedures may be an issue and would have to be considered and followed. We agree. Allowing agencies to pay retention incentives to employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office or facility does not affect any requirement for agencies to follow reduction in force procedures in appropriate circumstances.

Changes to the Regulations

This notice amends the retention incentive regulations at 5 CFR part 575, subpart C, by establishing a new § 575.315 to provide agencies with the authority to pay a retention incentive to an employee who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office, facility, activity, or organization. The regulations regarding this new flexibility are contained only in this section. However, § 575.315 includes numerous cross-references to provisions that must be followed in other sections of 5 CFR part 575, subpart C. While many of the provisions in § 575.315 are the same as the requirements for a retention incentive authorized for an employee likely to leave the Federal service, § 575.315 contains additional parameters. Under this final regulation, agencies will continue to have the authority to pay a retention incentive to an employee in a closure or relocation situation who would be likely to leave the Federal service in the absence of an incentive.

Under § 575.315(a)(1), an agency may approve a retention incentive for an individual employee when the agency determines—

- Given the agency's mission requirements and the employee's competencies, the agency has a special need for the employee's services that makes it essential to retain the employee in his or her current position during a period of time before the closure or relocation of the employee's office, facility, activity, or organization; and
- In the absence of a retention incentive, the employee would be likely to leave for a different position in the Federal service.

Section 575.315(a)(2) also provides an agency with the authority to approve a retention incentive for a group or category of employees if (1) the agency has a special need for the employees' services that makes it essential to retain the employees in their current positions during a period of time before a closure or relocation and (2) there is a high risk that a significant number of the employees in the group would be likely to leave for different positions in the Federal service in the absence of a retention incentive. An agency may not include an employee in a senior-level or scientific or professional, Senior Executive Service, or Executive Schedule position, or in certain other senior positions, in a group retention incentive authorization. (See §§ 575.315(a)(2) and 575.305(c).)

Agencies may use this new retention incentive flexibility for an employee in a position listed in § 575.303 (e.g., General Schedule or prevailing rate position) who is not excluded by § 575.304 (e.g., Presidential appointees). The employee must have a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of at least ''Fully Successful'' or equivalent. In addition, the employee must have received a general or specific written notice from the agency that his or her position may or would be affected by the closure or relocation of the employee's office, facility, activity, or organization (e.g., the employee's position may or would move to a new geographic location or the employee's position may or would be eliminated). (See § 575.315(b).)

Under § 575.315(c), an agency must include in its retention incentive plan established under § 575.307(a) the conditions and requirements governing the use of retention incentives for employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employee's office, facility, activity, or organization. The plan also must designate the authorized agency officials who may approve such retention incentives, consistent with the approval requirements in § 575.307(b).

For each determination to pay a retention incentive under new § 575.315, an agency must document in writing the basis for authorizing the incentive and for the amount and timing of approved incentive payments. (See § 575.315(d).) When documenting the determination to pay a retention incentive for an individual employee who would be likely to leave for a different Federal position, agencies must consider the factors in § 575.306(b), as applicable, and—

- The extent to which the employee's departure for a different position in the Federal service would affect the agency's ability to carry out an activity, perform a function, or complete a project the agency deems essential to its mission before and during the closure or relocation period (e.g., the agency's need (1) to retain the employee to ensure minimal disruption in the performance of mission-critical functions, continuity of key operations, or minimal disruption of service to the public before and during the closure or relocation; (2) to train new employees who will move with the organization to the new geographic location; (3) to assist with the actual closure or relocation of the office, facility, activity, or organization; or (4) to perform similar mission-essential functions before or during the closure or relocation);
- The competencies possessed by the employee that are essential to retain; and
- The agency (which may be in the executive, judicial, or legislative branch) for which the employee would be likely

to leave in the absence of the retention incentive (as required by the reporting requirements in section 101(c)(2) of Pub. L. 108–411).

Agencies must address similar factors in documenting each determination to pay a retention incentive to a group or category of employees. (See § 575.315(d)(3).) In addition, the agency must narrowly define a targeted category of employees. The factors that may be appropriate are described in § 575.306(c)(2), except that each group retention incentive authorized under new § 575.315 may cover no more than one occupational series.

Under § 575.315(e), the payment options, calculations, and limitations in § 575.309 apply to the payment of retention incentives to employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employees' office, facility, activity, or organization, except an agency may not pay retention incentives in biweekly installments at the full retention incentive percentage rate established for the employee under § 575.309(a). Agencies will need to consider options to pay all or a significant portion of the retention incentive at the end of the full period of service required by the service agreement to maximize the effectiveness of the retention incentive. For example, an agency could pay the retention incentive in a single lump-sum payment at the end of the full period of service required by the service agreement. An agency also could pay the retention incentive in installment payments that are less than the full percentage retention incentive rate authorized. The agency could defer payment of a portion of the full payment (e.g., 50 percent or more) until the end of the full period of service required by the service agreement. Guidance on such strategic payment options is provided at *http://www.opm.gov/oca/pay/HTML/retpaycalc.asp*.

The service agreement provisions in §§ 575.310(b) through 575.310(e) apply to retention incentive service agreements for employees who would be likely to leave for a different position in the Federal service under this final regulation, subject to the additional requirements in § 575.315(f). The period of employment under such a service agreement may be of any length, not to exceed the date on which the employee's position is actually affected by the closure or relocation. The service agreement must include the conditions under which the agency must terminate the service agreement in § 575.310(d) and (e) and § 575.315(g), including the conditions under which the agency will pay an additional retention incentive payment for partially completed service. The service agreement also must notify employees that the agency will review the retention incentive at least annually to determine if payment is still warranted.

Under § 575.315(f), the service agreement termination provisions in § 575.311 apply to retention incentive service agreements for employees who would be likely to leave for a different position in the Federal service in the absence of such an incentive. Section 575.315(f) also requires agencies to review each determination to pay a retention incentive under new § 575.315 at least annually to determine if payment is still warranted. In addition, § 575.315(g)(2) requires an agency to terminate a retention incentive service agreement when—

- The closure or relocation is cancelled and no longer affects the employee's position;
- The employee moves to another position not affected by the closure or relocation (including another position within the same agency);
- For relocation situations, the employee accepts the agency's offer to relocate with his or her the office, facility, activity, or organization and, thus, the employee is no longer likely to leave for a different position in the Federal service; or
- The employee moves to a different position in the same office, facility, activity, or organization subject to closure or relocation not covered by the employee's service agreement. (The agency may authorize a new retention incentive under § 575.315 for the employee, as appropriate.).

If an authorized agency official terminates a service agreement under the conditions specified above, the employee is entitled to keep any retention incentive installment payments already received. Under certain conditions, the employee also may receive a portion or all of any amount attributable to completed service, similar to the provisions under § 575.311.

Monitoring and Reporting Requirements

The Federal Workforce Flexibility Act of 2004 provided additional monitoring and reporting requirements for retention incentives authorized for employees who would be likely to leave for a different position in the Federal service in the absence of an incentive. Section 101(a)(3) provides a sense of Congress statement that OPM should be notified within 60 days after the date on which a retention incentive is paid to retain an employee who might otherwise leave one Government agency for another within the same geographic area. This section also states OPM should monitor the payment of such retention incentives to ensure they are an effective use of the Federal Government's funds and have not adversely affected Government agencies' ability to carry out their mission. In addition, section 101(c)(2) requires OPM to include in its report to Congress on recruitment, relocation, and retention incentives information and data on the use of retention incentives to prevent individuals from moving between positions in different agencies but the same geographic area (including the names of the agencies involved).

The frequent notification provisions in section 101(a)(3) of the Federal Workforce Flexibility Act of 2004 for the new retention incentive flexibility would be administratively difficult for agencies to implement and follow. Retention incentive monitoring and recordkeeping requirements in § 575.312 and 575.313(a) are already in place, and OPM and agencies will apply them to retention incentives authorized under new § 575.315 for employees who would be likely to leave for a different position in the Federal service in the absence of an incentive.

In addition, consistent with the reporting requirements in section 101(c)(2) the Federal Workforce Flexibility Act of 2004, § 575.315(i) specifies an additional annual reporting requirement for such retention incentives. This annual report will allow OPM to monitor and evaluate the use of the new retention incentive flexibility. Section 575.315(i) requires each agency to submit a written report to OPM by March 31 of each year on the use of retention incentives under § 575.315. In each of the years 2008 through 2010, the written report may be included in the agency's written report for OPM's report to Congress under § 575.313(b). Each report must include—

- A description of how the authority to pay retention incentives under § 575.315 was used in the agency during the previous calendar year;
- The number and dollar amount of retention incentives paid during the previous calendar year to individuals under § 575.315 by occupational series and grade, pay level, or other pay classification;
- The agency (which may be in the executive, judicial, legislative branch) to which each individual employee would be likely to leave in the absence of a retention incentive;

• Each individual employee's official worksite and the geographic location of the agency (which may be in the executive, judicial, or legislative branch) to which each individual employee would be likely to leave in the absence of a retention incentive; and

• Other information, records, reports, and data as OPM may require.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

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 apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 575

Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM amends 5 CFR part 575 as follows:

PART 575—RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES; SUPERVISORY DIFFERENTIALS; AND EXTENDED ASSIGNMENT INCENTIVES

■ 1. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2) and 5307; subparts A and B also issued under 5 U.S.C. 5753 and sec. 101, Public Law 108–411, 118 Stat. 2305; subpart C also issued under 5 U.S.C. 5754 and sec. 101, Public Law 108–411, 118 Stat. 2305; subpart D also issued under 5 U.S.C. 5755; subpart E also issued under 5 U.S.C. 5757 and sec. 207 of Public Law 107–273, 116 Stat. 1780.

Subpart C—Retention Incentives

§ 575.301 [Amended]

■ 2. In § 575.301, remove ''the Federal service'' from the second sentence.

■ 3. Add a new § 575.315 to subpart C to read as follows:

§ 575.315 Retention incentives for employees likely to leave for a different position in the Federal service.

(a) *Authority.* (1) An agency in its sole and exclusive discretion, subject only to OPM review and oversight, may approve a retention incentive for an individual employee under the conditions prescribed in this section when the agency determines that—

(i) Given the agency's mission requirements and employee's competencies, the agency has a special need for the employee's services that makes it essential to retain the employee in his or her current position during a period of time before the closure or relocation of the employee's office, facility, activity, or organization; and

(ii) The employee would be likely to leave for a different position in the Federal service in the absence of a retention incentive.

(2) An agency in its sole and exclusive discretion, subject only to OPM review and oversight, may approve a retention incentive for a group or category of employees (subject to the exclusions in § 575.305(c)) under the conditions prescribed in this section when the agency determines that—

(i) Given the agency's mission requirements and employees' competencies, the agency has a special need for the employees' services that makes it essential to retain the employees in their current positions during a period of time before the closure or relocation of the employees' office, facility, activity, or organization; and

(ii) There is a high risk that a significant number of the employees in the group would be likely to leave for different positions in the Federal service in the absence of a retention incentive.

(b) *Employee eligibility.* An agency may pay a retention incentive to an employee under this section when—

(1) The employee holds a position listed in § 575.303, and is not excluded by § 575.304;

(2) The employee's rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) is at least ''Fully Successful'' or equivalent; and

(3) The agency has provided a general or specific written notice to the employee that his or her position may or would be affected by the closure or relocation of the employee's office, facility, activity, or organization (e.g., the employee's position may or would move to a new geographic location or the employee's position may or would be eliminated).

(c) *Retention incentive plan and approval levels.* Before authorizing a retention incentive under this section, an agency must include in its retention incentive plan established under § 575.307(a) the conditions and requirements governing the use of retention incentives under this section for employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the employees' office, facility, activity, or organization, including a designation of the authorized agency officials who may approve retention incentives under this section, consistent with the approval requirements in § 575.307(b).

(d) *Approval criteria and written determination.* (1) For each determination to pay a retention incentive under this section, an agency must document in writing—

(i) The basis for determining the agency has a special need for the employee's (or group of employees') services that makes it essential to retain the employee(s), based on the agency's mission needs and the employee's (or group of employees') competencies, during a period of time before the closure or relocation of the employee's (or group of employees') office, facility, activity, or organization;

(ii) The basis for determining, in the absence of a retention incentive, the employee (or a significant number of employees in a group) would be likely to leave for a different position in the Federal service; and

(iii) The basis for establishing the amount and timing of the approved retention incentive payment and the length of the required service period.

(2) An agency must address the following factors when documenting the determination required by paragraph (a) of this section for an individual employee:

(i) The factors for authorizing a retention incentive for an individual employee described in § 575.306(b) as they relate to a determination made under paragraph (a)(1) of this section;

(ii) The extent to which the employee's departure for a different position in the Federal service would affect the agency's ability to carry out an activity, perform a function, or complete a project the agency deems essential to its mission before and during the closure or relocation period (e.g., the agency's need to retain the employee to ensure minimal disruption in the performance of mission-critical functions, continuity of key operations, or minimal disruption of service to the public before and during the closure or relocation; to train new employees who will move with the organization to the new geographic location; to assist with the actual closure or relocation of the office, facility, activity, or organization; or to perform similar mission-essential functions before or during the closure or relocation);

(iii) The competencies possessed by the employee that are essential to retain; and

(iv) The agency (which may be in the executive, judicial, or legislative branch) for which the employee would be likely

to leave in the absence of the retention incentive.

(3) An agency must address the following factors when documenting the determination required by paragraph (a) of this section for a group or category of employees:

(i) The factors for authorizing a retention incentive for a group or category of employees described in § 575.306(c) as they relate to the determination made under paragraph (a)(2) of this section; and

(ii) The factors in paragraphs (d)(2)(ii) through (d)(2)(iv) of this section as they relate to the determination made under paragraph (a)(2) of this section for the group or category of employees.

(4) An agency must narrowly define a targeted category of employees using factors that relate to the conditions described in paragraph (a)(2) of this section. The factors that may be appropriate are described in § 575.306(c)(2), except that each group retention incentive authorized under this section may cover no more than one occupational series.

(e) *Payment of retention incentives.* (1) Except as provided in paragraph (e)(2) of this section, the provisions regarding computing and paying retention incentives under § 575.309 apply to computing and paying retention incentives under this section for employees who would be likely to leave for a different position in the Federal service before the closure or relocation of the their office, facility, activity, or organization.

(2) An agency may not pay retention incentives under this section in biweekly installments at the full retention incentive percentage rate established for the employee under § 575.309(a).

(f) *Service agreement requirements.* (1) The service agreement provisions in §§ 575.310(b) through 575.310(e) apply to retention incentive service agreements under this section, subject to the additional requirements in paragraphs (f)(2) through (f)(5) of this section.

(2) Before paying a retention incentive under this section, an agency must require an employee, including each employee covered by a group retention incentive authorization, to sign a written service agreement to complete a specified period of employment with the agency.

(3) In no event, may the service period under a service agreement established under this paragraph extend past the date on which the employee's position is actually affected by the relocation or closure of the employee's office, facility, activity, or organization (e.g., the date the employee's position moves to a new geographic location or the date the employee's position is eliminated).

(4) In addition to the terminating conditions in § 575.310(d) and (e), the service agreement must include the conditions under which the agency must terminate the service agreement under paragraph (g) of this section, including the conditions under which the agency will pay an additional retention incentive payment for partially completed service under § 575.311.

(5) The service agreement must include a notification to the employee that the agency will review the determination to pay the retention incentive at least annually to determine whether payment is still warranted, as required by paragraph (g) of this section.

(g) *Termination of retention incentives.* (1) The provisions in § 575.311 regarding termination of retention incentive service agreements and paragraphs (g)(2) through (g)(4) of this section apply to the termination of retention incentives authorized under this section. Each determination to pay a retention incentive under this section must be reviewed at least annually to determine if payment is still warranted. An authorized agency official must certify this determination in writing.

(2) In addition to the terminating conditions in § 575.311(a) and (b), an authorized agency official must terminate a retention incentive service agreement under this section if—

(i) The closure or relocation is cancelled or no longer affects the employee's position;

(ii) The employee moves to another position not affected by the closure or relocation (including another position within the same agency);

(iii) For relocation situations, the employee accepts the agency's offer to relocate with his or her the office, facility, activity, or organization and, thus, the employee is no longer likely to leave for a different position in the Federal service; or

(iv) The employee moves to a different position in the same office, facility, activity, or organization subject to closure or relocation that is not covered by the employee's service agreement. In this situation, the agency may authorize a new retention incentive for the employee under this section, as appropriate.

(3) If an authorized agency official terminates a service agreement under paragraph (g)(2)(ii) or (iv) of this section in cases in which the employee's movement to another position is by management action and not at the employee's request or under paragraph (g)(2)(i) of this section, the employee is entitled to retain any retention incentive payments that are attributable to completed service and to receive any portion of a retention incentive payment owed by the agency for completed service.

(4) If an authorized agency official terminates a service agreement in termination actions under paragraph (g)(2) of this section that are not covered by paragraph (g)(3) of this section, the employee is entitled to retain retention incentive payments previously paid by the agency that are attributable to the completed portion of the service period. If the employee received retention incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the retention incentive service agreement.

(h) *Monitoring requirements.* The monitoring requirements in § 575.312 apply to retention incentives authorized under this section.

(i) *Records and reports.* (1) In addition to the recordkeeping requirements in § 575.313(a), each agency must submit a written report to OPM by March 31 of each year on the use of retention incentives under this section. Each report must include—

(i) A description of how the authority to pay retention incentives under this section was used in the agency during the previous calendar year;

(ii) The number and dollar amount of retention incentives paid during the previous calendar year to individuals under this section by occupational series and grade, pay level, or other pay classification;

(iii) The agency (which may be in the executive, judicial, legislative branch) to which each employee would be likely to leave in the absence of a retention incentive;

(iv) Each employee's official worksite and the geographic location of the agency (which may be in the executive, judicial, or legislative branch) for which each employee would be likely to leave in the absence of a retention incentive; and

(v) Other information, records, reports, and data as OPM may require.

(2) In each of the years 2008 through 2010, the written report required by paragraph (i)(1) of this section may be included in the agency's written report to OPM for OPM's report to Congress under § 575.313(b).

[FR Doc. E7–22490 Filed 11–15–07; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 13

RIN 3150–AH74

Use of Electronic Submissions in Agency Hearings; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on August 28, 2007 (72 FR 49139), that requires the use of electronic submissions in all agency hearings, consistent with the existing practice for the high-level radioactive waste repository application. This document is necessary to correct two typographical errors.

DATES: This correction is effective November 16, 2007, and is applicable to October 15, 2007.

FOR FURTHER INFORMATION CONTACT: Darani Reddick, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–3841, e-mail *dmr@nrc.gov*, or Steven Hamrick, Office of the General Counsel, telephone 301–415–4106, e-mail *sch1@nrc.gov.*

SUPPLEMENTARY INFORMATION: As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Classified information, Confidential business information, Freedom of information, Hazardous waste, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 13

Administrative practice and procedure, Claims, Fraud, Penalties.

■ Accordingly, 10 CFR part 2 is corrected by making the following correcting amendment:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f); Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.321 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201(b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Subpart C also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Section 2.301 also issued under 5 U.S.C. 554. Sections 2.343, 2.346, 2.712, also issued under 5 U.S.C. 557. Section 2.340 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.390 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K 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).

§ 2.4 [Corrected]

■ 2. In the definition for ''participant,'' in the second sentence, remove ''§ 2,315(b)'' and add in its place ''§ 2.315(c).''

PART 13—PROGRAM FRAUD CIVIL REMEDIES

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

Authority: Public Law 99–509, secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Sections 13.13 (a) and (b) also issued under section Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

§ 13.2 [Corrected]

■ 4. In the definition for ''participant,'' in the second sentence, remove ''§ 2,315(b)'' and add in its place ''§ 2.315(c).''

Dated at Rockville, Maryland, this 8th day of November 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–22378 Filed 11–15–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 29

[Docket No. SW015; Special Condition No. 29–015–SC]

Special Conditions: DynCorp International, Supplemental Type Certificate (STC), Project Number ST2902RC–R, Installation of Pratt & Whitney Canada PT6–67D Engine With Full Authority Digital Engine Control (FADEC) on Global Helicopter Technology, Inc. (GHTI), Restricted Category Model UH–1H Helicopters, Type Certificate (TC) Number R00002RC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special condition; request for comments.

SUMMARY: This special condition is issued for Supplemental Type Certificate (STC), Project Number ST2902RC–R, for the installation of a Pratt and Whitney PT6–67D Turbine Engine on Global Helicopter Technology Inc. (GHTI), Restricted Category, U.S. Army military surplus helicopters, Model UH–1H, type certificated under type certificate (TC) R00002RC. The installation of the PT6–67D on the Restricted Category UH–1H will have a novel or unusual design feature associated with the installation of the Full Authority Digital Engine Control (FADEC). The applicable airworthiness regulations do not contain adequate or appropriate safety standards to protect systems that perform critical control functions from the effects of a high-intensity radiated field (HIRF). This special condition contains the additional safety standards that the Administrator considers necessary to ensure that critical control functions of systems will be maintained when exposed to HIRF.

DATES: The effective date of this special condition is November 7, 2007. We must receive your comments by January 15, 2008.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration (FAA), Rotorcraft Directorate, Attention: Rules Docket (ASW–111), Docket No. SW015, Fort

Worth, Texas 76193–0111. You may deliver two copies to the Rotorcraft Directorate at the above address. You must mark your comments: Docket No. SW015. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 4 p.m. The Rules Docket for special conditions is maintained at the Federal Aviation Administration, Rotorcraft Directorate, 2601 Meacham Blvd., Room 448, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110; telephone 817–222–5439, fax 817–222–5961.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are unnecessary because the substance of this special condition has been subject to the public comment process in several prior instances with no substantive comments received. We are satisfied that new comments are unlikely. The FAA therefore finds that good cause exists for making this special condition effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, views, or data. The most helpful comments reference a specific portion of the special condition, explain the reason for any recommended change, and include supporting data.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about this special condition. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring additional expense or delay. We may change this special condition based on the comments we receive.

If you want us to let you know we received your comments on this special condition, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On January 9, 2007, DynCorp International applied for an STC for the installation of a Pratt & Whitney PT6–67D Turbine Engine on the GHTI, U.S. Army UH–1H, Restricted Category Helicopter, type certificated under Type Certificate R00002RC. This UH–1H Restricted Category helicopter is a utility/heavy lift helicopter with a two-bladed teetering main rotor system. It is to be powered by a single Pratt and Whitney PT6–67D engine that incorporates a full authority digital engine control (FADEC). The maximum gross weight of the aircraft is 9,500 pounds.

Supplemental Type Certification Basis

Under the provisions of 14 CFR 21.101, DynCorp International must show that the Engine Installation meets the applicable provisions of the regulations as listed below:

- 14 CFR part 29 as amended through and including Amendment 29–1, effective August 12, 1965.
- 14 CFR part 29.1529, Instructions for Continued Airworthiness, Amendment Number 20, effective September 11, 1980.

In accordance with 14 CFR part 36.1(a)(4), compliance with the noise requirements was not shown for the aircraft. Therefore, the engine installations under this supplemental type certificate are only eligible for external load operations excepted by § 36.1(a)(4) and defined under § 133.1(b). Any alteration to the aircraft for special purpose not identified above will require further FAA approval and in addition, may require noise testing, flight testing, or a combination of noise and flight testing.

In addition, the certification basis includes an equivalent safety finding pertaining to a limitation associated with repetitive high torque cycle events that is not relevant to this special condition.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this STC because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

The FAA issues special conditions as defined in § 11.19, and issued in accordance with § 11.38, and they become part of the STC certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model, the modification, or a combination of the model and the modification for which they are issued. Should this STC be revised to include any other model that incorporates the same novel or unusual design feature, this special condition would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The GHTI UH–1H Restricted Category Helicopter with a Pratt & Whitney PT6–67D engine installed will incorporate the following novel or unusual design features: Electrical, electronic, or a combination of electrical and electronic (electrical/electronic) systems, specifically a FADEC, that will be performing critical control functions for the continued safe flight and landing of the helicopter. A FADEC is an electronic device that performs the critical functions of engine control during flight operations.

Discussion

The DynCorp International installation of the PT6–67D in the UH–1H helicopter, at the time of application, was identified as incorporating an electronic FADEC system. After the design is finalized, DynCorp International will provide the FAA with a preliminary hazard analysis. This analysis will identify the critical control functions that are required for safe flight and landing that are performed by the FADEC system.

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical/electronic systems that perform critical control functions. These advanced systems respond to the transient effects of induced electrical current and voltage caused by HIRF incidents on the external surface of the helicopter. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of § 29.1309(a). Higher energy levels radiate from operational transmitters currently used for radar, radio, and television. Also, the number of transmitters has increased significantly.

Existing aircraft or alteration certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of the technological advances in helicopter design and the changing environment have resulted in an increased level of

vulnerability of the electrical/electronic systems required for the continued safe flight and landing of the helicopter. The design and installation of these systems will provide effective measures to protect this engine installation on this helicopter against the adverse effects of exposure to HIRF. The following primary factors contributed to the current conditions: (1) Increased use of sensitive electronics that perform critical control functions; (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials; (3) adverse service experience of military aircraft using these technologies; and (4) an increase in the number and power of radio frequency emitters and the expected increase in the future.

On July 30, 2007, we issued a final HIRF rule (72 FR 44016, August 6, 2007). This rule provides standards to protect aircraft electrical and electronic systems from HIRFs. It was effective September 5, 2007. However, that rule included provisions that provide relief from the new testing requirements for equipment previously certificated under HIRF special conditions issued in accordance with 14 CFR § 21.16. To obtain this relief, the applicant must be able to—

(1) Provide evidence that the system was the subject of HIRF special conditions issued before December 1, 2007;

(2) Show that there have been no system design changes that would invalidate the HIRF immunity characteristics originally demonstrated under the previously issued HIRF special conditions; and

(3) Provide the data used to demonstrate compliance with the HIRF special conditions under which the system was previously approved.

DynCorp's FADEC installation is eligible for this relief provided in 14 CFR § 29.1317(d) of the final HIRF rule. However, to meet their HIRF requirements, they must comply with this Special Condition, which is based on similar, historical HIRF protections requirements.

These special conditions will require the systems that perform critical control functions, as installed in the aircraft, to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation and operational capabilities of the installed electrical/electronic systems that perform critical control functions are not adversely affected when the aircraft is exposed to the defined HIRF test environment. The FAA has determined that the test environment defined in Table 1 is acceptable for critical control functions in helicopters.

The applicant may also demonstrate by a laboratory test that the electrical/electronic systems that perform critical control functions can withstand a peak electromagnetic field strength in a frequency range of 10 KHz to 18 GHz. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 200 volts per meter (v/m) is more appropriate for critical functions during VFR operations. Laboratory test levels are defined according to RTCA/DO–160D Section 20 Category Y (200 v/m and 300 mA). As defined in DO–160D Section 20, the test levels are defined as the peak of the root means squared (rms) envelope. As a minimum, the modulations required for RTCA/DO–160D Section 20 Category Y will be used. Other modulations should be selected as the signal most likely to disrupt the operation of the system under test, based on its design characteristics. For example, flight control systems may be susceptible to 3 Hz square wave modulation while the video signals for electronic display systems may be susceptible to 400 Hz sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80 percent depth of modulation in the frequency range from 10 KHz to 400 MHz and 1 KHz square wave with greater than 90 percent depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Applicants must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical control functions. The term ''critical control'' means those functions whose failure would contribute to or cause an unsafe condition that would prevent the continued safe flight and landing of the helicopter. The FADEC system identified by the hazard analysis as performing critical control functions is required to have HIRF protection.

Compliance with HIRF requirements will be demonstrated by tests, analysis models, similarity with existing systems, or a combination of these methods. The two basic options of either testing the FADEC system to the defined environment or laboratory testing may not be combined. The laboratory test allows some frequency areas to be undertested and requires other areas to have some safety margin when compared to the defined environment. The areas required to have some safety margin are those shown, by past testing, to exhibit greater susceptibility to adverse effects from HIRF; and laboratory tests, in general, do not accurately represent the aircraft installation. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to HIRF. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the radiated fields.

The modulation that represents the signal most likely to disrupt the operation of the system under test, based on its design characteristics should be selected. For example, flight control systems may be susceptible to 3 Hz square wave modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80 percent depth of modulation in the frequency range from 10 KHz to 400 MHz, and 1 KHz square wave with greater than 90 percent depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical control function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case-by-case basis.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	150	150
100–500 KHz	200	200
500–2000 KHz	200	200
2–30 MHz	200	200
30–100 MHz	200	200
100–200 MHz	200	200
200–400 MHz	200	200
400–700 MHz	730	200
700–1000 MHz	1400	240

TABLE 1.—FIELD STRENGTH VOLTS/METER—Continued

Frequency	Peak	Average
1–2 GHz	5000	250
2–4 GHz	6000	490
4–6 GHz	7200	400
6–8 GHz	1100	170
8–12 GHz	5000	330
12–18 GHz	2000	330
18–40 GHz	1000	420

Applicability

As discussed previously, this special condition is applicable to Supplemental Type Certificate (STC) Project Number ST2902RC–R, for the installation of a Pratt & Whitney PT6–67D turbine engine in GHTI UH–1H military surplus helicopters type certificated under TC R00002RC. Should DynCorp International apply at a later date for a change to the STC to include another model incorporating the same novel or unusual design feature, the special condition would apply to that STC modification as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features associated with this STC project. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

The substance of this special condition has been subjected to a notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting this special condition upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the supplemental type certification basis for STC Project ST2902RC–R, installation of PT6–67D on Global Helicopter Technology, Inc. (GHTI), Model UH–1H, Restricted Category Helicopters, type certificated under TC R00002RC.

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields.

1. Each system that performs critical control functions must be designed and installed to ensure that the operation and operational capabilities of these critical control functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

2. For the purpose of this special condition, critical control functions are defined as those functions, whose failure would contribute to, or cause, an unsafe condition that would prevent the continued safe flight and landing of the aircraft.

Issued in Fort Worth, Texas, on November 7, 2007.

Mark R. Schilling,

Acting Manager, Aircraft Certification Service, Rotorcraft Directorate.

[FR Doc. 07–5698 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0076; Directorate Identifier 2007–NM–241–AD; Amendment 39–15246; AD 2007–22–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 Series Airplanes

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a typographical error in an existing airworthiness directive (AD) that was published in the **Federal Register** on November 1, 2007 (72 FR 61796). The error resulted in an error in an airplane series number identified in Table 2 of the AD. This AD applies to all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. This AD requires repetitive detailed visual inspections for cracking of the LH (left hand) and RH (right hand) wing MLG (main landing gear) rib 6 aft bearing lugs, and repair or replacement of the MLG rib 6 fitting, if necessary.

DATES: Effective November 16, 2007.

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

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

SUPPLEMENTARY INFORMATION: On October 24, 2007, the FAA issued AD 2007–22–10, amendment 39–15246 (72 FR 61796, November 1, 2007), for all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. The AD requires repetitive detailed visual inspections for cracking of the LH (left hand) and RH (right hand) wing MLG (main landing gear) rib 6 aft bearing lugs, and repair or replacement of the MLG rib 6 fitting, if necessary.

As published, Table 2 of the AD states that certain repetitive inspection intervals apply to Model ''A300–300 series airplanes, except WV27.'' That sentence contains a typographical error and, instead, should state that those repetitive inspection intervals apply to Model ''A340–300 series airplanes, except WV27.''

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

The effective date of this AD remains November 16, 2007.

§ 39.13 [Corrected]

■ In the **Federal Register** of November 1, 2007, on page 61799, Table 2 of AD 2007–22–10 is corrected to read as follows:

* * * * *

TABLE 2.—REPETITIVE INSPECTION INTERVALS

Model	Interval (whichever occurs first)
A330–200 series airplanes	300 flight cycles or 1,500 flight hours.
A330–300 series airplanes	300 flight cycles or 900 flight hours.
A340–200 series airplanes	200 flight cycles or 800 flight hours.
A340–300 Series airplanes, except WV27	200 flight cycles or 800 flight hours.
A340–300 series airplanes, WV27	200 flight cycles or 400 flight hours.
A340–500 and –600 series airplanes	100 flight cycles or 500 flight hours.

* * * * *

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22305 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30579; Amdt. No. 3244]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes in the National Airspace System, such as the commissioning of new navigational facilities, adding of new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 16, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 16, 2007.

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

For Examination—

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

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

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

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

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

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

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

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 2, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
10/18/07 ...	NJ	LAKEWOOD	LAKEWOOD	7/0649	VOR RWY 6, AMDT 6A.
10/18/07 ...	NJ	LAKEWOOD	LAKEWOOD	7/0650	RNAV (GPS) RWY 24, ORIG–A.
10/18/07 ...	NJ	LAKEWOOD	LAKEWOOD	7/0651	RNAV (GPS) RWY 6, ORIG–A.
10/22/07 ...	GA	ATLANTA	DEKALB–PEACHTREE	7/1070	RNAV (GPS) RWY 20L, ORIG.
10/23/07 ...	AQ	PAGO PAGO	PAGO PAGO INTL	7/1356	ILS/DME RWY 5, AMDT 13A .
10/25/07 ...	NY	BATAVIA	GENESEE COUNTY	7/1735	VOR/DME OR GPS–A, AMDT 5.
10/26/07 ...	NH	PORTSMOUTH	PORTSMOUTH INTL	7/2088	VOR OR GPS RWY 34, ORIG–B.
10/26/07 ...	NC	WILMINGTON	WILMINGTON INTL	7/2089	ILS RWY 35, AMDT 20C.

[FR Doc. E7–22246 Filed 11–15–07; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30578 ; Amdt. No. 3243]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective November 16, 2007. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 16, 2007.

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

For Examination—

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

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

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

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

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

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

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

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the SIAPs, the associated Takeoff Minimums,and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 2, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 20 DEC 2007

Kenai, AK, Kenai Muni, ILS OR LOC RWY 19R, Amdt 3
King Salmon, AK, King Salmon, ILS OR LOC/DME RWY 11, Amdt 16
King Salmon, AK, King Salmon, LOC/DME BC RWY 29, Amdt 3
Kotzebue, AK, Ralph Wien Memorial, RNAV (GPS) RWY 9, Amdt 1A
Benton, AR, Saline County Regional, LOC/DME RWY 2, Orig
Benton, AR, Saline County Regional, Takeoff Minimums and Obstacle DP, Orig
Merced, CA, Merced Muni/Macready Field, VOR RWY 30, Orig
San Francisco, CA, San Francisco Intl, LDA/DME RWY 28R, Amdt 1
San Francisco, CA, San Francisco Intl, LDA PRM RWY 28R, Amdt 1 (Simultaneous Close Parallel)
San Francisco, CA, San Francisco Intl, ILS PRM RWY 28L, Amdt 1 (Simultaneous Close Parallel)
San Francisco, CA, San Francisco Intl, ILS OR LOC RWY 28L, Amdt 22
Grand Junction, CO, Grand Junction Rgnl, ILS OR LOC RWY 11, Amdt 15
Washington, DC, Ronald Reagan Washington National, VOR RWY 15, Amdt 9C, CANCELLED
Washington, DC, Ronald Reagan Washington National, RNAV (RNP) RWY 1, Orig
Lakeland, FL, Lakeland Linder Regional, VOR RWY 27, Amdt 7A
Marathon, FL, The Florida Keys Marathon, RNAV (GPS) RWY 7, Orig
Marathon, FL, The Florida Keys Marathon, RNAV (GPS) RWY 25, Orig
Marathon, FL, The Florida Keys Marathon, NDB–A, Orig
Marathon, FL, The Florida Keys Marathon, NDB OR GPS RWY 7, Amdt 3B (CANCELLED)
Marathon, FL, The Florida Keys Marathon, Takeoff Minimums and Obstacle DP, Amdt 1
Orlando, FL, Orlando Intl, VOR RWY 18L, Amdt 3C, CANCELLED
Orlando, FL, Orlando Intl, VOR RWY 18R, Amdt 3C, CANCELLED
St. Petersburg/Clearwater, FL, St. Petersburg-Clearwater Intl, RNAV (GPS)-A, Orig-A
Canton, GA, Cherokee County, RNAV (GPS) RWY 22, Orig
Canton, GA, Cherokee County, NDB RWY 4, Amdt 3
Canton, GA, Cherokee County, Takeoff Minimums and Obstacle DP, Amdt 1
Cordele, GA, Crisp County-Cordele, NDB RWY 10, Amdt 5
Vidalia, GA, Vidalia Regional, RNAV (GPS) RWY 24, Orig-B
Corning, IA, Corning Muni, Takeoff Minimums and Obstacle DP, Amdt 2

Nampa, ID, Nampa Muni, RNAV (GPS) RWY 11, Orig-A
Chicago/Prospect Hgts/Wheeling, IL, Chicago Executive, ILS OR LOC RWY 16, Amdt 2
Chicago/Prospect Hgts/Wheeling, IL, Chicago Executive, RNAV (GPS) RWY 16, Orig
Chicago/Prospect Hgts/Wheeling, IL, Chicago Executive, GPS RWY 16, Orig-A, CANCELLED
Litchfield, IL, Litchfield Muni, RNAV (GPS) RWY 18, Orig-A
Litchfield, IL, Litchfield Muni, RNAV (GPS) RWY 36, Orig-A
Gary, IN, Gary/Chicago Intl, ILS OR LOC RWY 30, Amdt 5
Indianapolis, IN, Indianapolis International, VOR RWY 14, Amdt 26, CANCELLED
Glasgow, KY, Glasgow Muni, Takeoff Minimums and Obstacle DP, Orig
Somerset, KY, Somerset-Pulaski Co-JT Wilson, RNAV (GPS) Y RWY 5, Amdt 2
Somerset, KY, Somerset-Pulaski Co-JT Wilson, RNAV (GPS) Z RWY 5, Orig
Williamsburg, KY, Williamsburg-Whitley County, RNAV (GPS) RWY 20, Orig-A
Lafayette, LA, Lafayette Regional, NDB OR GPS RWY 22L, Amdt 4B, CANCELLED
Leonardtown, MD, St. Mary's County Rgnl, RNAV (GPS) RWY 11, Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, VOR RWY 22L, Amdt 1F, CANCELLED
Bolivar, MO, Bolivar Municipal, RNAV (GPS) RWY 36, Orig-A
Jefferson City, MO, Jefferson City Memorial, Takeoff Minimums and Obstacle DP, Amdt 7
Kansas City, MO, Kansas City Intl, VOR/DME OR TACAN RWY 1L, Orig-A, CANCELLED
Kansas City, MO, Kansas City Intl, VOR/DME OR TACAN RWY 19R, Orig-A, CANCELLED
Kansas City, MO, Kansas City Intl, VOR/DME OR TACAN RWY 27, Orig, CANCELLED
Monett, MO, Monett Muni, RNAV (GPS) RWY 18, Orig-A
Monett, MO, Monett Muni, RNAV (GPS) RWY 36, Orig-A
Monticello, MO, Lewis County Regional, RNAV (GPS) RWY 18, Orig-A
Monticello, MO, Lewis County Regional, RNAV (GPS) RWY 36, Orig-A
St. Louis, MO, Creve Coeur, RNAV (GPS) RWY 16, Amdt 1
St. Louis, MO, Creve Coeur, RNAV (GPS) RWY 34, Amdt 1
St. Louis, MO, Creve Coeur, Takeoff Minimums and Obstacle DP, Amdt 2
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 18, Orig-A
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 36, Orig-A
Raymond, MS, John Bell Williams, Takeoff Minimums and Obstacle DP, Amdt 3
Alliance, NE, Alliance Muni, LOC/DME RWY 30, Orig
McCook, NE, McCook Regional, ILS OR LOC/DME RWY 12, Orig
McCook, NE, McCook Regional, RNAV (GPS) RWY 12, Amdt 1
McCook, NE, McCook Regional, VOR RWY 12, Amdt 12
McCook, NE, McCook Regional, LOC/DME RWY 12, Orig, CANCELLED
McCook, NE, McCook Regional, Takeoff Minimums and Obstacle DP, Orig
Oshkosh, NE, Garden County, RNAV (GPS) RWY 12, Amdt 1
Jamestown, ND, Jamestown Regional, ILS OR LOC RWY 31, Amdt 7D
Bowling Green, OH, Wood County, RNAV (GPS) RWY 10, Orig-A
Bowling Green, OH, Wood County, RNAV (GPS) RWY 18, Orig-A
Bowling Green, OH, Wood County, RNAV (GPS) RWY 28, Orig-A
Oklahoma City, OK, Clarence E. Page Muni, RNAV (GPS) RWY 17R, Amdt 1A
Oklahoma City, OK, Clarence E. Page Muni, RNAV (GPS) RWY 35L, Amdt 1A
Ponca City, OK, Ponca City Regional, ILS OR LOC/DME RWY 17, Amdt 2
Ponca City, OK, Ponca City Regional, Takeoff Minimums and Obstacle DP, Orig
Annville, PA, Millard, VOR/DME OR GPS–A, Amdt 3, CANCELLED
Annville, PA, Millard, Takeoff Minimums and Obstacle DP, Orig, CANCELLED
Newport, RI, Newport State, Takeoff Minimums and Obstacle DP, Amdt 3
Memphis, TN, Memphis Intl, VOR/DME RWY 18R, Orig-A, CANCELLED
Ballinger, TX, Bruce Field, RNAV (GPS) RWY 35, Orig-A
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 32, Orig
Laredo, TX, Laredo Intl, VOR OR TACAN RWY 32, Amdt 10
Port Lavaca, TX, Calhoun County, RNAV (GPS) RWY 14, Amdt 1
Port Lavaca, TX, Calhoun County, Takeoff Minimums and Obstacle DP, Orig
Culpeper, VA, Culpeper Rgnl, RNAV (GPS) RWY 4, Orig
Culpeper, VA, Culpeper Rgnl, RNAV (GPS) RWY 22, Orig
Culpeper, VA, Culpeper Rgnl, NDB OR GPS–B, Orig-A, CANCELLED
Culpeper, VA, Culpeper Rgnl, VOR/DME RNAV OR GPS RWY 22, Amdt 1B, CANCELLED
Petersburg, VA, Dinwiddie County, VOR RWY 23, Amdt 6
Petersburg, VA, Dinwiddie County, LOC RWY 5, Amdt 2
Petersburg, VA, Dinwiddie County, RNAV (GPS) RWY 5, Amdt 1
Petersburg, VA, Dinwiddie County, RNAV (GPS) RWY 23, Amdt 1
Petersburg, VA, Dinwiddie County, Takeoff Minimums and Obstacle DP, Orig
Port Angeles, WA, William R. Fairchild Intl, ILS OR LOC RWY 8, Amdt 2A
Port Angeles, WA, William R. Fairchild Intl, RNAV (GPS) RWY 8, Orig-A
Seattle, WA, Boeing Field/King County Intl, RNAV (RNP) Z RWY 13R, Orig
Vancouver, WA, Pearson Field, Takeoff Minimums and Obstacle DP, Amdt 2
Walla Walla, WA, Walla Walla Regional, RNAV (GPS) RWY 2, Amdt 1
Yakima, WA, Yakima Air Terminal/Mcallister Field, ILS RWY 27, Amdt 26D
Green Bay, WI, Austin Straubel Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Middleton, WI, Middleton Muni-Morey Field, RNAV (GPS) RWY 28, Amdt 1A
Waukesha, WI, Waukesha County, ILS OR LOC RWY 10, Amdt 1

[FR Doc. E7–22206 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–HA–0015; RIN 0720–AB13]

32 CFR Part 199

TRICARE; Expansion of Geographic Scope of the TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule expands the geographic scope of the TRICARE Retiree Dental Program (TRDP) to overseas locations not currently covered by the program. At this time, TRDP is applicable only in the 50 United States (U.S.) and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Expanding the geographic scope of the program will ensure that all TRICARE-eligible retirees are eligible for the same dental benefits, regardless of their location. There are no additional Government costs associated with this final expansion of TRDP overseas as TRDP costs are borne entirely by enrollees through premium payments.

DATES: *Effective Date:* This rule is effective November 16, 2007.

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

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule Provisions

This final rule expands the geographic scope of TRDP to overseas locations not currently covered by the program. Although 10 U.S.C. 1076c does not restrict the geographic availability of the TRDP, per 32 CFR 199.22(b)(3), TRDP is currently limited to the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Expanding the geographic scope of the program will ensure that all TRICARE-eligible retirees are eligible for the same dental benefits, regardless of their location. This expansion of the geographic scope of the TRDP program is based upon feedback from the TRICARE-eligible retiree community which indicated that there is a demand for this program in all overseas locations.

Although the TRDP is administered in a manner similar to the TRICARE Dental

Program (TDP), there are significant differences in program funding. TDP costs are shared for two of the four eligible categories of TDP enrollees between the enrollees and the Department of Defense; however, for the other two categories of TDP enrollees, and all TRDP enrollees, costs are borne entirely by enrollees through premium payments. Enrollees are also responsible for any dental costs in excess of the TRDP coverage limits, and the contractor is solely responsible for any program costs in excess of annual premium payments.

Therefore, there are no additional Government costs associated with this expansion of TRDP coverage overseas. Specific methods of TRDP program administration, payment rates and procedures, provider licensure and certification requirements, and other program elements may differ by location to the extent necessary for the effective and efficient operation of the plan. These differences may include, but are not limited to, specific provisions for preauthorization of care, varying licensure and certification requirements for foreign providers, and other differences based on limitations in the availability and capabilities of the Uniformed Services overseas dental treatment facilities and a particular nation's civilian sector providers in certain areas.

II. Review of Public Comments

We provided a 60-day comment period on the proposed rule which was published in the **Federal Register** on April 16, 2007 (72 FR 18927). No comments were received.

III. Regulatory Procedures

Executive Order 12866 directs agencies to assess all costs and benefits available, regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget (OMB) if it meets any one of a number of specified conditions, including having an annual effect on the national economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. DoD has examined the economic, legal, and policy implications of this final rule and has concluded that it is a significant regulatory action because it may raise novel legal or policy issues of enhancing the dental health of military retirees and their dependents who reside overseas. The changes set forth in the final rule to the existing regulation do not change the basic TRDP benefit structure.

The Regulatory Flexibility Act (RFA) requires that each Federal Agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a Regulation which would have a significant impact on a substantial number of small entities. This final rule does not have a significant impact on small entities.

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

Executive Order 13132 requires that each Federal Agency shall consult with State and local officials and obtain their input if a rule has federalism implications which have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have examined the impact of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government; therefore, consultation with State and local officials is not required.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3511) and which has been approved by OMB under control number 0720–0015. This rule will not change this requirement, but will only increase the number of beneficiaries who are eligible to enroll in the TDRP by approximately 100,000 people. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Respondents should be aware that 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.

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 32 CFR Part 199

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

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

PART 199—[AMENDED]

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

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

■ 2. § 199.22 is amended by revising paragraph (b)(3) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(3) *Geographic scope.* (i) The TRDP is applicable to authorized providers in the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(ii) The Assistant Secretary of Defense (Health Affairs) (ASD (HA)) may extend the TRDP to geographic areas other than those specified in paragraph (b)(3)(i) of this section. In extending the TRDP overseas, the ASD (HA) is authorized to establish program elements, methods of administration, and payment rates and procedures that are different from those in effect for the areas specified in paragraph (b)(3)(i) of this section to the extent the ASD (HA), or designee, determines necessary for the effective and efficient operation of the TRDP. These differences may include, but are not limited to, specific provisions for preauthorization of care, varying licensure and certification requirements for foreign providers, and other differences based on limitations in the availability and capabilities of the Uniformed Services overseas dental treatment facilities and a particular nation's civilian sector providers in certain areas. The Director, TRICARE Management Activity shall issue guidance, as necessary, to implement the provisions of this paragraph. TRDP enrollees residing in overseas locations will be eligible for the same benefits as enrollees residing in the continental

United States, although dental services may not be available or accessible in all locations.

* * * * *

Dated: November 9, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–22445 Filed 11–15–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 519

Publication of Rules Affecting the Public

AGENCY: Department of the Army, DoD.

ACTION: Final rule; removal.

SUMMARY: This action removes 32 CFR Part 519, Publication of Rules Affecting the Public, published in the **Federal Register**, August 6, 2004 (69 FR 47766). The rule is being removed because it does not place requirements on the public but merely prescribes procedures for Army proponents to follow for rulemaking and the publishing of items in the **Federal Register**.

DATES: Effective November 16, 2007.

ADDRESSES: U.S. Army Records Management and Declassification Agency, (AAHS–RDR–C), 7701 Telegraph Road, Alexandria, VA 22315–3860.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Bowen, (703) 428–6422.

SUPPLEMENTARY INFORMATION: The Office of the Administrative Assistant to the Secretary of the Army, is the proponent for the regulation represented in 32 CFR part 519, and has concluded this regulation does not affect the public. The Army is not required to publish matters that are related solely to the internal personnel rules and practices of any agency. Therefore, it would be helpful in avoiding confusion with the public if 32 CFR part 519, is removed.

List of Subjects in 32 CFR Part 519

Administrative practices and procedures.

PART 519—[REMOVED]

■ Accordingly, for reasons stated in the preamble, under the authority of Sec. 3012, Public Law 84–1028, 70A Stat. 157, (10 U.S.C. 3013); sec. 3, Public Law 79–404, 60 Stat. 238, (5 U.S.C. 552), 32 CFR Part 519, *Publication of Rules Affecting the Public*, is removed in its entirety.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–5682 Filed 11–15–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of Navy

32 CFR Part 701

Privacy Act of 1974; Implementation

AGENCY: U.S. Marine Corps, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Marine Corps, as a principal component of the Department of Navy, is making this administrative amendment to combine like systems by removing an exempted system of records notice from its inventory, MMN00018, ''Base Security Incident Report System''. The records will be maintained in the Department of Navy's exempted system of record notice NM05580–1, ''Security Incident System''. Therefore, the MMN00018, ''Base Security Incident Report System'' exemption rule system is being deleted.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The Department of Navy's exempted system of record notice NM05580–1, ''Security Incident System'' was published in the **Federal Register** on January 9, 2007 (72 FR 958).

List of Subjects in 32 CFR Part 701

Privacy.

■ Accordingly, 32 CFR part 701 subpart G is to be amended as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Subpart G—Privacy Act Exemptions

■ 1. The authority citation for 32 CFR part 701 continues to read as follows:

Authority: 5 U.S.C. 552.

§ 701.129 [Amended]

■ 2. Section 701.129 is amended by removing and reserving paragraph (a).

Dated: November 7, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–22195 Filed 11–15–07; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0995; FRL–8134–6]

Pendimethalin; Pesticide Tolerance Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued a final rule in the **Federal Register** of May 16, 2007, concerning the establishment of tolerances for combined residues of pendimethalin and its metabolites, 4-[(1-ethylpropyl)amino]-2-methyl-3-5-dinitrobenzyl alcohol in or on various commodities. This document is being issued to correct the amendatory language.

DATES: This final rule is effective November 16, 2007.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0995. 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: Phillip V. Errico, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 305–6663; e-mail address: *errico.phillip@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 Correction Do?

FR Doc. 07–9428 published in the **Federal Register** of May 16, 2007 (72 FR 27456) (FRL–8120–2) is corrected to clarify the amendatory language to paragraph (a) of § 180.361 as it appeared on page 27460 of the final rule.

III. Why is this Correction 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 correction final without prior proposal and opportunity for comment, because the use of notice and comment procedures are unnecessary to effectuate this correction. 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 only corrects the amendatory language for 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 May 16, 2007, final rule (72 FR 27456).

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. Section 180.361 is amended in paragraph (a) in the table by removing ''Bean, lima, seed''; ''Bean, lima, succulent''; and ''Pea, succulent''; by revising ''Bean, forage'' and ''Bean, hay''; and by alphabetically adding ''Beans'' and ''Peas (except field peas)'' to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * *	* *
Beans	0.10
Beans, forage	0.10
Beans, hay	0.10
* * *	* *
Peas (except field peas)	0.10
* * *	* *

* * * * *

[FR Doc. E7–22354 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 72, No. 221
Friday, November 16, 2007

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

9 CFR Part 121

[Docket No. APHIS–2007–0033]

RIN 0579–AC53

Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule that would amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before December 3, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0033 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0033, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0033.

Reading Room: You may read any comments that we receive on Docket No. APHIS–2007–0033 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: For information concerning the regulations in 7 CFR part 331, contact Ms. Gwendolyn Burnett, Select Agent Program Compliance Manager, PPQ, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737–1231, (301) 734–5960.

For information concerning the regulations in 9 CFR part 121, contact Dr. Frederick D. Doddy, Veterinary Medical Officer, Animals, Organisms and Vectors, and Select Agents, VS, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737–1231, (301) 734–5960.

SUPPLEMENTARY INFORMATION: On August 28, 2007, we published in the **Federal Register** (72 FR 49231–49236, Docket No. APHIS–2007–0033) a proposal that would amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products.

Comments on the proposed rule were required to be received on or before October 29, 2007. We are reopening the comment period on Docket No. APHIS–2007–0033 for an additional 15 days from the date of this notice. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between October 30, 2007, and the date of this notice.

Authority: 7 U.S.C. 8401; 7 CFR 2.22, 2.80, 371.3, and 371.4.

Done in Washington, DC, this 9th day of November 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–22431 Filed 11–15–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0177; Directorate Identifier 2007–SW–19–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 430 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for BHTC Model 430 helicopters. 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 aviation authority of Canada, with which we have a bilateral agreement, states in the MCAI:

It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

The cumulative effect of individual part tolerances resulting in the total assemblage of those parts being out of tolerance could result in the tail rotor yoke striking another part other than the flapping stop (parts interference) cited in the MCAI. Also, the misalignment of the tail rotor counterweight bellcrank may result in higher tail rotor pedal forces and a higher pilot workload after failure of the #1 hydraulic system. Both parts interference and the misaligned counterweight bellcrank create an unsafe condition. The proposed AD would require actions that are intended to address these unsafe conditions.

DATES: We must receive comments on this proposed AD by December 17, 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tyrone Millard, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5439, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

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–2007–0177; Directorate Identifier 2007–SW–19–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://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

Transport Canada, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–04, dated April 5, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for this Canadian-certificated product. The MCAI states:

> It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

Because the cumulative effect of the tolerances on the various parts may result in the total assemblage outboard of the counterweight bellcrank being out of tolerance, the tail rotor yoke may contact the nut, P/N 222–012–731–001, before contacting the flapping stop, resulting in less tail rotor travel. Additionally, the manufacturer has indicated that the tail rotor counterweight bellcranks may be misaligned, resulting in higher tail rotor pedal forces and higher pilot workload after failure of the #1 hydraulic system. Both the parts interference and the higher pedal forces constitute unsafe conditions.

You may obtain further information by examining the manufacturer's service bulletin and the MCAI in the AD docket.

Relevant Service Information

Bell Helicopter Textron has issued Service Bulletin 430–07–39, dated January 9, 2007. The actions described in the MCAI are intended to correct the same unsafe condition as that identified in the service information.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of Canada, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, we have been notified of the unsafe condition described in the MCAI and the service information. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in the ''Differences Between the FAA AD and the MCAI'' section in the proposed AD.

Costs of Compliance

We estimate that this proposed AD would affect about 58 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. A replacement yoke would cost about $21,218, assuming the part is no longer under warranty. However, because the service information lists this part as covered under warranty, we have assumed that there will be no charge for this part, if needed. Therefore, as we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these assumptions and figures, we estimate the cost of the proposed AD on U.S. operators to be $9,280, or $160 per helicopter.

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 an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada: Docket No. FAA–2007–0177; Directorate Identifier 2007–SW–19–AD.

Comments Due Date

(a) We must receive comments by December 17, 2007.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Bell Helicopter Textron Canada (BHTC) Model 430 helicopters with serial numbers 49001 through 49122, certificated in any category.

Reason

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

It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

This ''possibility of parts interference'' occurs because the cumulative effect of the tolerances on the various parts may result in the total assemblage outboard of the counterweight bellcrank being out of tolerance and the tail rotor yoke may contact nut, P/N 222–012–731–001, before contacting the flapping stop. Further, the manufacturer has indicated that the tail rotor counterweight bellcranks may be misaligned resulting in higher tail rotor pedal forces and higher pilot workload after failure of the #1 hydraulic system. Both the parts interference and the higher pedal forces constitute unsafe conditions.

Actions and Compliance

(e) Within the next 150 hours time-in-service (TIS) or at the next annual inspection, whichever occurs first, unless already done, do the following actions.

(1) Adjust the rigging of the tail rotor pitch change mechanism in accordance with the Accomplishment Instructions, Paragraphs 1 and 2, in Bell Helicopter Textron Alert Service Bulletin 430–07–39, dated January 9, 2007 (ASB).

(2) If either at full left pedal position or full right pedal position a gap exists between the tail rotor yoke and the flapping stop, replace the tail rotor yoke with an airworthy tail rotor yoke.

(3) If no gap exists between the tail rotor yoke and the flapping stop at either full right or full left pedal position, measure the gap between the tail rotor yoke and nut, P/N 222–012–731–001, adjust the tail rotor pitch change mechanism, and adjust the tail rotor pedal forces in accordance with the Accomplishment Instruction, Paragraphs 4 through 6 of the ASB.

Differences Between the FAA AD and the MCAI

(f) This AD requires compliance within the next 150 hours TIS or at the next annual inspection, whichever occurs first, instead of ''at the next 150 hour or annual inspection but no later than 31 December 2007.''

Subject

(g) Air Transport Association of America (ATA) Code JASC 6720: Tail Rotor Control System, Tail Rotor Pitch Change.

Other Information

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, 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: Tyrone Millard, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5439, fax (817) 222–5961.

(2) Airworthy Product: Use only FAA-approved corrective actions. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent) if the State of Design has an appropriate bilateral agreement with the United States. You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(i) MCAI Transport Canada Airworthiness Directive CF–2007–04, dated April 5, 2007, and Bell Helicopter Textron Alert Service Bulletin (ASB) No. 430–07–39, dated January 9, 2007, contain related information.

Issued in Fort Worth, Texas, on November 2, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–22440 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0178; Directorate Identifier 2007–SW–20–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for BHTC Model 222, 222B, and 222U helicopters. 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 aviation

authority of Canada, with which we have a bilateral agreement, states in the MCAI:

> It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

The cumulative effect of individual part tolerances resulting in the total assemblage of those parts being out of tolerance could result in the tail rotor yoke striking another part other than the flapping stop (parts interference) cited in the MCAI. Also, the misalignment of the tail rotor counterweight bellcrank may result in higher tail rotor pedal forces and a higher pilot workload after failure of the No. 1 hydraulic system. Both parts interference and the misaligned counterweight bellcrank create an unsafe condition. The proposed AD would require actions that are intended to address these unsafe conditions.

DATES: We must receive comments on this proposed AD by December 17, 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tyrone Millard, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5439, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

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–2007–0178; Directorate Identifier 2007–SW–20–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://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

Transport Canada, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive No. CF–2007–07, dated April 11, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the Canadian-certificated products. The MCAI states:

> It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

Because the cumulative effect of the tolerances on the various parts may result in the total assemblage outboard of the counterweight bellcrank being out of tolerance, the tail rotor yoke may contact nut, P/N 222–012–731–001, before contacting the flapping stop, resulting in less tail rotor travel. Additionally, the manufacturer has indicated that the tail rotor counterweight bellcranks may be misaligned resulting in higher tail rotor pedal forces and higher pilot workload after failure of the No. 1 hydraulic system. Both the parts interference and the higher pedal forces constitute unsafe conditions.

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

Relevant Service Information

Bell Helicopter Textron has issued Alert Service Bulletin (ASB) 222–07–104 and ASB 222U–07–75, both dated January 9, 2007. The actions described in the MCAI are intended to correct the same unsafe condition as that identified in the service information.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of Canada, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in the ''Differences Between the FAA AD and the MCAI'' section in the proposed AD.

Costs of Compliance

We estimate that this proposed AD would affect about 86 products of U.S. registry. Also, we estimate that it would take 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. A

replacement yoke would cost about $21,218, assuming the part is no longer under warranty. However, because the service information lists this part as covered under warranty, we have assumed that there will be no charge for this part. Therefore, as we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $13,760, or $160 per helicopter.

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 an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada: Docket No. FAA–2007–0178; Directorate Identifier 2007–SW–20–AD.

Comments Due Date

(a) We must receive comments by December 17, 2007.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Bell Helicopter Textron Canada (BHTC) Model 222, serial numbers (S/N) 47006 through 47089; Model 222B, S/N 47131 through 47156, and Model 222U, all serial numbers, helicopters, certificated in any category.

Reason

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

It has been determined that the existing rigging procedures for the tail rotor pitch change mechanism have to be changed due to possibility of parts interference.

This ''possibility of parts interference'' occurs because the cumulative effect of the tolerances on the various parts may result in the total assemblage outboard of the counterweight bellcrank being out of tolerance and the tail rotor yoke may contact nut, P/N 222–012–731–001, before contacting the flapping stop. Further, the manufacturer has indicated that the tail rotor counterweight bellcranks may be misaligned resulting in higher tail rotor pedal forces and higher pilot workload after failure of the No. 1 hydraulic system. Both the parts interference and the higher pedal forces constitute unsafe conditions.

Actions and Compliance

(e) Within the next 150 hours time-in-service (TIS) or at the next annual inspection, whichever occurs first, unless already done, do the following actions.

(1) Adjust the rigging of the tail rotor pitch change mechanism in accordance with the Accomplishment Instructions, Paragraphs 1 and 2, of the applicable Bell Helicopter Textron Alert Service Bulletin (ASB) listed in the following Table 1:

TABLE 1

Helicopter model	Applicable ASB & date
222 and 222B ...	222–07–104 dated January 9, 2007.
222U	222U–07–75 dated January 9, 2007.

(2) If either at full left pedal position or full right pedal position a gap exists between the tail rotor yoke and the flapping stop, replace the tail rotor yoke with an airworthy tail rotor yoke.

(3) If no gap exists between the tail rotor yoke and the flapping stop at either full right or full left pedal position, measure the gap between the tail rotor yoke and nut, P/N 222–012–731–001, adjust the tail rotor pitch change mechanism, and adjust the tail rotor pedal forces in accordance with the Accomplishment Instruction, Paragraphs 4 through 6, of the ASB listed in Table 1 of the AD.

Differences Between the FAA AD and the MCAI

(f) This AD requires compliance within the next 150 hours TIS or at the next annual inspection, whichever occurs first, instead of ''at the next 150 hour or annual inspection but no later than 31 December 2007.

Subject

(g) Air Transport Association of America (ATA) Code JASC 6720: Tail Rotor Control System, Tail Rotor Pitch Change.

Other Information

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, 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: Tyrone Millard, Aerospace Engineer; FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5439, fax (817) 222–5961.

(2) Airworthy Product: Use only FAA-approved corrective actions. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent) if the State of Design has an appropriate bilateral agreement with the United States. You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(i) MCAI Transport Canada Airworthiness Directive CF–2007–07, dated April 11, 2007, and Bell Helicopter Textron ASB Nos. 222–07–104 and 222U–07–75, both dated January 9, 2007, contain related information.

Issued in Fort Worth, Texas, on November 5, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–22441 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502, 542, 543, 546, and 547

Notice of Extension of Comment Period

AGENCY: National Indian Gaming Commission, DOI.

SUMMARY: This notice extends the period for comments on the proposed definition for electronic or electromechanical facsimile (72 FR 60482), Class II game classification standards (72 FR 60483), Class II technical standards (72 FR 60495), and Class II minimum internal control standards (72 FR 60508) published in the **Federal Register** on October 24, 2007.

DATES: The comment period for the proposed definition for electronic or electromechanical facsimile, Class II game classification standards, Class II technical standards, and Class II minimum internal control standards regulations is extended from December 10, 2007, to January 24, 2008.

FOR FURTHER INFORMATION CONTACT: Penny Coleman, John Hay, or Michael Gross at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 et seq.) (IGRA) to regulate gaming on Indian lands. On October 24, 2007, the proposed definition for electronic or electromechanical facsimile (72 FR 60482), Class II game classification standards (72 FR 60483), Class II technical standards (72 FR 60495), and Class II minimum internal control standards (72 FR 60508) regulations were published in the **Federal Register**.

Dated: November 5, 2007.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

Cloyce V. Choney,

Vice Chairman, National Indian Gaming Commission.

Norman H. DesRosiers,

Commissioner, National Indian Gaming Commission.

[FR Doc. E7–22409 Filed 11–15–07; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–151884–03]

RIN 1545–BD81

Update and Revision of Sections 1.381(c)(4)–1 and 1.381(c)(5)–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance under sections 381(c)(4) and (c)(5) of the Internal Revenue Code (Code) relating to the accounting method or combination of methods, including the inventory method, to use after certain corporate reorganizations and tax-free liquidations. These proposed regulations clarify and simplify the existing regulations under sections 381(c)(4) and (c)(5). The regulations affect corporations that acquire the assets of other corporations in transactions described in section 381(a).

DATES: Written or electronic comments and requests for a public hearing must be received by February 14, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–151884–03), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–151884–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov/* (IRS REG–151884–03).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Cheryl Oseekey at (202) 622–4970; concerning submissions of comments and requests for a hearing, Kelly Banks at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Overview

Section 381 of the Code was enacted in 1954 to provide statutory authority for determining the carryover of certain tax attributes, including accounting methods, in certain corporate reorganizations and tax-free liquidations. Regulations implementing section 381(c)(4) were issued on August 5, 1964 (29 FR 11263). On August 23, 1972, the IRS proposed to revise these regulations (37 FR 16947). On December 23, 1998, the IRS withdrew the regulations that had been proposed in 1972 (63 FR 71047). Regulations implementing section 381(c)(5) were issued on January 15, 1975 (40 FR 2684).

Section 1.381(c)(4)–1 generally provides that after a section 381(a) transaction, the accounting method or combination of methods used by the parties to the section 381(a) transaction prior to the transaction will continue. However, when the accounting methods used prior to the section 381(a) transaction cannot continue to be used after the transaction, § 1.381(c)(4)–1 identifies the accounting method(s) to use after the transaction. Section 1.381(c)(5)–1 provides similar rules regarding inventory accounting methods.

The IRS and the Treasury Department are aware that the current regulations are inconsistent in the treatment of adjustments for inventory methods and for other accounting methods, and that there is confusion regarding the appropriate procedure for making accounting method changes required by section 381. In a notice of proposed rulemaking (68 FR 25310) issued on May 12, 2003, regarding sections 263A and 448, the IRS and the Treasury Department indicated that guidance regarding the accounting method(s) to be used after a section 381(a) transaction was contemplated. This notice of proposed rulemaking provides that guidance.

This notice of proposed rulemaking generally continues many of the provisions of the regulations originally issued in 1964 and 1975 regarding the accounting method or combination of methods to be used by the corporation that acquires the assets of another corporation in a section 381(a) transaction. However, the following

changes to these regulations are proposed.

Consistency Between Sections 381(c)(4) and (c)(5)

Under the current regulations, there are several inconsistencies between the rules that apply to accounting method changes made pursuant to section 381(c)(4) and those made under section 381(c)(5). The proposed regulations generally make the rules that apply to accounting method changes made pursuant to section 381(c)(4) consistent with the rules that apply to changes made under section 381(c)(5).

Determining the Method To Be Used After the Section 381(a) Transaction

In general, the current regulations under both sections 381(c)(4) and (c)(5) provide that the accounting method to be used after a section 381(a) transaction by the party that survives the reorganization or liquidation (acquiring corporation) will depend on whether (1) The parties to the section 381(a) transaction used (or did not use) the same accounting method on the date of the section 381(a) transaction, and (2) The businesses of the parties to the section 381(a) transaction are combined after the transaction by the party that survives the transaction. If different methods are used and the combined corporations are operated as a single trade or business after the section 381(a) transaction, then the principal and special method (including the inventory method) rules apply.

The parties to the section 381(a) transaction determine the principal method by applying various tests under the regulations. The applicable test depends on whether the method under consideration is the overall accounting method, the method for a particular type of goods for which the Code or regulations provide a special method or methods, or an inventory method. The rules under the current regulations also address situations in which there is no principal method, or the principal method does not clearly reflect income. Currently, the regulations provide that if there is no principal method after applying the appropriate test or if that method is impermissible, the Commissioner shall select a suitable accounting method to use after the transaction.

The IRS and the Treasury Department believe that the various tests in the regulations and the need for the Commissioner in some situations to select a suitable accounting method to be used after the transaction have caused confusion and have led to controversies between taxpayers and the IRS. In order to eliminate the confusion and uncertainty and provide simplicity and uniformity, the IRS and the Treasury Department propose to provide rules that are similar to the current regulations but have a default rule to determine the principal method.

The proposed regulations generally provide under both sections 381(c)(4) and (c)(5) that the accounting method to be used after a section 381(a) transaction by the acquiring corporation will depend on whether (1) The businesses of the parties to the section 381(a) transaction are combined after the transaction by the acquiring corporation, and (2) The method is permissible. As under the current regulations, if the trades or businesses of the parties to the section 381(a) transaction are operated as separate trades or businesses after the section 381(a) transaction, an accounting method used by the parties prior to the section 381(a) transaction carries over and is used by the acquiring corporation provided the method is permissible (carryover method). If the trades or businesses of the parties to the section 381(a) transaction are not operated as separate trades or businesses after the section 381(a) transaction, then the acquiring corporation must determine and use the principal method.

The proposed regulations provide a general rule that the principal method generally is the accounting method used by the acquiring corporation prior to the section 381(a) transaction. However, there are two exceptions. First, if the acquiring corporation does not have an accounting method for a particular item or type of goods, the principal method is the accounting method for the item or type of goods used by the distributor or transferor corporation prior to the section 381(a) transaction. Second, if the distributor or transferor corporation is larger than the acquiring corporation, the principal methods for the overall accounting method and for the accounting method for a particular item or type of goods are the methods used by the distributor or transferor corporation prior to the section 381(a) transaction. The principal method continues to be determined separately for the overall accounting method and for any special accounting methods, such as an accounting method used for a long-term contract.

Under the proposed regulations, whether the distributor or transferor corporation is larger than the acquiring corporation is determined using the test in § 1.381(c)(4)–1 of the current regulations for determining the overall principal method for methods other than inventory. Therefore, the parties to the section 381(a) transaction will compare their relative sizes in terms of total asset bases and gross receipts for both the overall accounting method and for special accounting methods. For inventory, whether the distributor or transferor corporation is larger than the acquiring corporation will be determined based on the value of the inventory using a test similar to the test in § 1.381(c)(5)–1 of the current regulations. The principal method is the inventory method used by the party with the largest fair market value of a particular type of goods. The regulations provide a simplified election that allows the acquiring corporation to apply the principal method test by comparing the value of the entire inventories of the parties to the section 381(a) transaction rather than the value of each particular type of goods.

Under the proposed regulations, if the carryover method or principal method is an impermissible method, the acquiring corporation generally must file a request to change to a permissible accounting method. However, if the carryover method is impermissible solely because only a single accounting method with respect to a particular item may be used by the acquiring corporation on the date of the section 381(a) transaction regardless of the number of separate and distinct trades or businesses operated on that date, the acquiring corporation must use the principal method as determined under § 1.381(c)(4)–1(c) of the proposed regulations.

All parties to a section 381(a) transaction may request permission to change their accounting methods for the taxable year in which the transaction occurs or is expected to occur under section 446(e). However, the acquiring corporation need not secure the Commissioner's consent to continue a carryover method or use the principal method.

Additionally, there is confusion under the current regulations as to whether an accounting method is established immediately upon use of a carryover method or principal method if the method is impermissible, and as to the appropriate remedy if an acquiring corporation discovers after the deadline for filing a request to change an accounting method for the year of the section 381(a) transaction that the carryover method or principal method is an impermissible method. The proposed regulations make it clear that every accounting method, whether it is a carryover method or a principal method, and whether the method is a permissible or impermissible method, is an established accounting method. Therefore, if an acquiring corporation

discovers after the deadline for filing a request to change an accounting method for the year of the section 381(a) transaction that it is using an impermissible method, the acquiring corporation must file for an accounting method change to a permissible accounting method for the taxable year following the section 381(a) transaction.

Determining Adjustments Arising From a Change in an Accounting Method Under Sections 381(c)(4) and (c)(5)

Under the current regulations in § 1.381(c)(4)–1, once a principal method is determined, any party to the section 381(a) transaction that is required to change its accounting method to the principal method must compute the adjustment necessary to reflect the change by determining the difference between its tax liability as reflected on its actual return computed using its old accounting method, and the tax liability reflected on a hypothetical federal income tax return using the new accounting method. This adjustment is computed as if, on the date of the section 381(a) transaction, each changing corporation initiates an accounting method change. If there is an increase or decrease in tax liability, the acquiring corporation takes into account the hypothetical increase or decrease in tax in the taxable year that includes the date of the section 381(a) transaction.

The procedures are different for inventory under the current regulations in § 1.381(c)(5)–1. In lieu of the acquiring corporation taking into account the hypothetical increase or decrease in tax in the taxable year that includes the date of the section 381(a) transaction, the acquiring corporation takes the increase or decrease in income attributable to the accounting method change directly into account.

The IRS and the Treasury Department believe that the procedures for implementing changes to a principal method under the current regulations have been inconsistently applied and are another source of confusion. The proposed regulations modify § 1.381(c)(4)–1 and generally apply the adjustment methodology used under section 446(e) and § 1.381(c)(5)–1 of the current regulations. The proposed regulations generally make accounting method changes to a principal method and the resulting section 481(a) adjustment, if any, procedurally consistent with accounting method changes made pursuant to section 446(e). Accordingly, the acquiring corporation computes the section 481(a) adjustment necessary to reflect the accounting method change, if any, as if it had initiated an accounting method change for the trade or business required to implement the principal method. The acquiring corporation takes into account the appropriate amount of the section 481(a) adjustment, if any, computed as of the date of the section 381(a) transaction, from the accounting method change as an increase or decrease to its taxable income on the date of the section 381(a) transaction.

Furthermore, to simplify the procedures under section 381(a) for accounting method changes, the proposed regulations provide that the rules governing accounting method changes under section 446(e) apply to determine (1) Whether the section 381(a) accounting method change is implemented with a section 481(a) adjustment or on a cut-off basis, (2) The computation of the section 481(a) adjustment, and (3) The appropriate period of taxable years over which the adjustment is included in taxable income. These rules are contained in applicable administrative published procedures that govern voluntary accounting method changes under section 446(e). (See, for example, Rev. Proc. 2002–9 (2002–1 CB 327) (see § 601.601(d)(2)(ii)(*b*) of this chapter), as modified and clarified by Announcement 2002–17 (2002–1 CB 561), modified and amplified by Rev. Proc. 2002–19 (2002–1 CB 696) (see § 601.601(d)(2)(ii)(*b*) of this chapter), and amplified, clarified and modified by Rev. Proc. 2002–54 (2002–2 CB 432), and Rev. Proc. 97–27 (1997–1 CB 680) (see § 601.601(d)(2)(ii)(*b*) of this chapter), as modified and amplified by Rev. Proc. 2002–19, as amplified and clarified by Rev. Proc. 2002–54). For example, if the current administrative procedures allow a section 481(a) adjustment to be taken into account over a period of four years for a particular accounting method change, an acquiring corporation will take into account one-fourth of the section 481(a) adjustment in the taxable year that includes the section 381(a) transaction, and one-fourth of the section 481(a) adjustment in each of the subsequent three years.

Time and Manner of Requesting Permission To Change an Accounting Method Under § 1.381(c)(4)–1 or § 1.381(c)(5)–1

Under the current regulations, if the acquiring corporation cannot use a principal method because it is impermissible, that is, it does not clearly reflect income or it conflicts with a closing agreement, or the acquiring corporation does not want to use the principal method even though it is permissible, there is confusion as to the manner in which a taxpayer requests the Commissioner's permission to use a different accounting method. Specifically, it is unclear whether an acquiring corporation may file a Form 3115, Application for Change in Accounting Method, to request the Commissioner's permission or whether the acquiring corporation must file a request for a private letter ruling. The proposed regulations make it clear that a taxpayer must request an accounting method change consistent with the manner in which accounting method changes are requested pursuant to section 446(e), that is, on a Form 3115.

The regulations under section 446(e) currently allow taxpayers to request an accounting method change at any time during the taxable year. See § 1.446–1(e)(3)(i). Under §§ 1.381(c)(4)–1(d) and 1.381(c)(5)–1(d) of the current regulations, the time for filing a request for an accounting method change is inconsistent with the section 446(e) regulations. Although the times for filing under these two regulations were consistent when the regulations were initially published, the section 446(e) regulations were subsequently amended without making conforming changes to §§ 1.381(c)(4)–1(d) and 1.381(c)(5)–1(d) of the current regulations. This inconsistency also has caused confusion. Rev. Proc. 2005–63 (2005–2 CB 491) (see § 601.601(d)(2)(ii)(*b*) of this chapter) was issued to address the problem. The revenue procedure extends the time to file a request to change an accounting method to the later of (1) The last day of the taxable year in which the distribution or transfer occurred, or (2) The earlier of (a) the day that is 180 days after the section 381(a) transaction date, or (b) the day on which the acquiring corporation files its tax return for the taxable year in which the distribution or transfer occurred.

The proposed regulations generally incorporate the time provided in Rev. Proc. 2005–63 for requesting the Commissioner's consent to change an accounting method. The IRS and the Treasury Department intend by this revision generally to conform the due dates for requesting an accounting method change under sections 381(c)(4) and (c)(5) to the due dates for requesting other accounting method changes under section 446(e), while providing sufficient time to request the Commissioner's consent if the section 381(a) transaction occurs at or near the end of a taxable year.

Changing Accounting Methods in the Taxable Year of the Section 381(a) Transaction

The existing regulations under sections 381(c)(4) and (c)(5) require certain adjustments attributable to an accounting method change to be taken into account entirely in one taxable year. The adjustment required of the acquiring corporation under the existing section 381(c)(4) regulations is to take into account the hypothetical tax increase due to the accounting method change rather than a section 481(a) adjustment. The administrative procedures applicable to voluntary accounting method changes historically have required a section 481(a) adjustment to be taken into account over a period of taxable years. This discrepancy in when the adjustments are taken into account produced an incentive for taxpayers to request a voluntary accounting method change in the year in which the section 381(a) transaction occurred for changes that would result in a positive adjustment while making changes that would result in a negative adjustment under the rules in § 1.381(c)(4)–1 or § 1.381(c)(5)–1 of the current regulations. The IRS generally declined to entertain requests for an accounting method change that otherwise would be effected pursuant to sections 381(c)(4) and (c)(5). More recently, however, the administrative procedures that apply to voluntary accounting method changes have provided for taking positive section 481(a) adjustments into account over a period of taxable years while allowing negative section 481(a) adjustments to be taken into account in the year in which the method change is effected, which lessens the incentive to make an accounting method change under section 446(e) in lieu of section 381(a).

Generally, the proposed regulations provide that the acquiring corporation will be permitted to request an accounting method change for the taxable year in which the section 381(a) transaction occurs. The proposed regulations also provide that the other parties to a section 381(a) transaction will be allowed to request accounting method changes for the taxable year that ends with the section 381(a) transaction. For trades or businesses that will not operate as separate trades or businesses after the section 381(a) transaction, an accounting method change will be granted only if the requested method is the method that will continue to be used after the section 381(a) transaction. For example, an acquiring corporation will be granted permission to change an accounting method only if the proposed method will be the principal method on the date of the section 381(a) transaction. The IRS generally will not grant an accounting method change to a distributor or transferor corporation for the taxable year that ends with the section 381(a) transaction if that method must change to a different method under the principal method rules of §§ 1.381(c)(4)–1(c) and 1.381(c)(5)–1(c) of the proposed regulations. Similarly, the IRS generally will not grant an accounting method change to an acquiring corporation in the taxable year that includes the section 381(a) transaction if that method must change to a different method under the principal method rules of §§ 1.381(c)(4)–1(c) and 1.381(c)(5)–1(c) of the proposed regulations. If and when the proposed regulations are finalized, the IRS and the Treasury Department intend to make changes to the administrative procedures applicable to voluntary accounting methods to generally allow changes during the year of a section 381(a) transaction as previously described and will change relevant terms and conditions, as needed, particularly for taxpayers who are under exam or in appeals.

Audit Protection

Changes to the principal method under §§ 1.381(c)(4)–1 and 1.381(c)(5)–1 of the current regulations are made without audit protection. The IRS and the Treasury Department believe that audit protection is not warranted when either the carryover method or principal method, as applicable, is used in the context of voluntary compliance under sections 381(c)(4) and (c)(5). Unlike accounting method changes under section 446(e) for which a taxpayer must disclose its use of an improper accounting method as part of the accounting method change process, changes to a principal method pursuant to §§ 1.381(c)(4)–1 and 1.381(c)(5)–1 of the current regulations are made by the taxpayer on the tax return without disclosing the change on a Form 3115, Application for Change in Accounting Method.

The IRS and the Treasury Department, however, believe that audit protection is warranted when an accounting method other than the carryover method or principal method is used in the context of voluntary compliance under sections 381(c)(4) and (c)(5). Under the proposed regulations, a taxpayer using an improper accounting method may request permission to change the method at any time before the end of its taxable year. Thus, if the acquiring corporation is using an improper accounting method or would be required to use an improper accounting method because of the application of § 1.381(c)(4)–1 or § 1.381(c)(5)–1 of the proposed regulations, it can request consent to change to a proper accounting method. That change will be accorded the usual audit protection procedures provided in guidance issued under section 446(e) for the requested change. Similarly, if another party to the section 381(a) transaction is using an improper accounting method, it may request consent to change to a proper accounting method at any time prior to the section 381(a) transaction. That change also will be accorded the usual audit protection procedures provided in guidance issued under section 446(e) for the requested change.

Proposed Effective/Applicability Date

These regulations are proposed to apply to corporate reorganizations and tax-free liquidations described in section 381(a) that occur on or after the date these regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Although there is a lack of available data regarding the extent to which small entities engage in the corporate reorganizations and tax-free liquidations described in section 381(a), this certification is based on the belief of the IRS and the Treasury Department that these transactions generally involve larger entities. Notwithstanding this certification that only large entities are affected, these proposed regulations will not have a significant economic impact on large or small taxpayers. These proposed regulations will reduce burden on taxpayers by clarifying existing rules and simplifying the procedures for requesting changes in accounting methods to methods other than the carryover or principal methods. Additionally, these proposed regulations make the implementation rules more consistent with the general rules for changes in accounting methods. Therefore, because these proposed regulations would generally clarify and simplify existing rules, these regulations will not have a significant economic impact on a substantial number of small entities. The IRS and

the Treasury Department specifically solicit comment from any party, particularly affected small entities, on the accuracy of this certification. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department want to provide clear, consistent, and administrable rules that will reduce the uncertainty and controversy in this area. Thus, the IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. Topics on which comments are requested include: (1) In determining the relative sizes of the parties to a section 381(a) transaction, is it appropriate to calculate the gross receipts for a representative period by examining the gross receipts that are properly recognized under the acquiring corporation's and the distributor or transferor corporation's accounting method used for that period for federal income tax purposes, and (2) For a taxpayer using the last-in, first-out (LIFO) inventory method, should the principal method be applied at the level of each particular type of goods, or to pools of goods? All comments will be made available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Cheryl Oseekey, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.381(c)(4)–1 also issued under 26 U.S.C. 381(c)(4). * * *

Section 1.381(c)(5)–1 also issued under 26 U.S.C. 381(c)(5). * * *

Par. 2. In § 1.381(a)–1, paragraph (b)(1)(i) is revised and paragraph (e) is added to read as follows:

§ 1.381(a)–1 General rule relating to carryovers in certain corporate acquisitions.

* * * * *

(b) * * *

(1) * * * (i) The complete liquidation of a subsidiary corporation upon which no gain or loss is recognized in accordance with the provisions of section 332;

* * * * *

(e) *Effective/applicability date.* The rules of paragraph (b)(1)(i) of this section apply to corporate reorganizations and tax-free liquidations described in section 381(a) that occur on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 3. Section1.381(c)(4)–1 is revised to read as follows:

§ 1.381(c)(4)–1 Accounting method.

(a) *Introduction*—(1) *Purpose.* This section provides guidance regarding the accounting method or combination of methods (other than inventory and depreciation accounting methods) an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(4) apply and how to implement any associated accounting method changes. See § 1.381(c)(5)–1 for guidance regarding the inventory accounting methods an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(5) apply. See § 1.381(c)(6)–1 for guidance regarding the depreciation accounting methods an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(6) apply.

(2) *Carryover requirement*—(i) *In general.* In a transaction to which section 381(a) applies, if an acquiring corporation operates the trades or businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of distribution or transfer, then the acquiring corporation generally must use the same accounting method(s) used by the distributor or transferor corporation(s) on the date of distribution or transfer for the acquired trade or business (carryover method). If an acquiring corporation does not operate the trades or businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of distribution or transfer, then the acquiring corporation must use a principal method as determined under paragraph (c) of this section and must take into account any section 481(a) adjustment, if applicable, as required under paragraph (d)(1) of this section. The acquiring corporation need not secure the Commissioner's consent to continue or to use a permissible carryover method or principal method.

(ii) *Carryover method or principal method not permissible.* In general, if a carryover method or principal method is an impermissible accounting method, the acquiring corporation must secure the Commissioner's consent to change to a different accounting method as provided in paragraph (d)(2) of this section. If, however, a carryover method is impermissible solely because only a single accounting method with respect to a particular item may be used by the acquiring corporation after the date of the section 381(a) transaction regardless of the number of separate and distinct trades or businesses operated on that date, the acquiring corporation must use a principal method as determined under paragraph (c) of this section.

(iii) *Voluntary change.* All parties to a section 381(a) transaction may request permission under section 446(e) to change an accounting method for the taxable year in which the transaction occurs or is expected to occur. For trades or businesses that will not operate as separate trades or businesses after the section 381(a) transaction, an accounting method change will be granted only if the requested method is the method that the acquiring corporation must use after the date of the distribution or transfer in the taxable year that includes the section 381(a) transaction. The time and manner of obtaining the Commissioner's consent to change to a different accounting method is described in paragraph (d)(2) of this section.

(iv) *Examples.* The following examples illustrate the rules of this paragraph (a):

Example 1. Separate and distinct trades or businesses after the date of the distribution

or transfer—(i) *Facts.* X Corporation operates an employment agency that uses the overall cash receipts and disbursements accounting method. T Corporation operates an educational institution that uses an overall accrual method. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies. X Corporation operates the employment agency and educational institution as separate and distinct trades or businesses after the date of the section 381(a) transaction.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will use the cash receipts and disbursements method for the employment agency and an accrual method for the educational institution. X Corporation need not secure the Commissioner's consent to continue either accounting method.

Example 2. Carryover of special accounting method—(i) *Facts.* X Corporation provides personal grooming consulting and T Corporation provides weight management consulting. Both X Corporation and T Corporation use an overall accrual method. X Corporation acquires all of the assets of T Corporation in a transaction to which section 381(a) applies. X Corporation operates the personal grooming and weight management consulting businesses as separate and distinct trades or businesses after the date of the section 381(a) transaction. X Corporation has made an election to use the recurring item exception under § 1.461–4(h). T Corporation has not.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will use an overall accrual method for both the personal grooming consulting business and the weight management consulting business. X Corporation must continue to use the recurring item exception under § 1.461–4(h) for the personal grooming consulting business. X Corporation need not secure the Commissioner's consent to continue its overall accrual method and the recurring item exception under § 1.461–4(h) for the personal grooming consulting business.

Example 3. One accounting method allowed—(i) *Facts.* X Corporation is an engineering firm that uses the overall cash receipts and disbursements accounting method and has elected under section 171 to amortize bond premium with respect to its taxable bonds acquired at a premium. T Corporation is a manufacturer that uses an overall accrual accounting method and has not made a section 171 election to amortize bond premium with respect to its taxable bonds acquired at a premium. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies. X Corporation operates the engineering firm and manufacturing operations as separate and distinct trades or businesses after the date of the section 381(a) transaction.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will use the cash receipts and disbursements method for the engineering firm and an overall accrual method for the manufacturing operations. X Corporation may not continue separate accounting methods for amortizable bond premium, notwithstanding that it has two separate and distinct trades or businesses, because a taxpayer is permitted only one accounting method for amortizable bond premium. For both trades or businesses, X Corporation must use the principal method for bond premium as determined under paragraph (c) of this section. X Corporation will make the necessary changes to this principal method using the procedures described in paragraph (d)(1) of this section. Further, if the principal method is not to amortize bond premium, X Corporation may make an election to amortize bond premium to the extent permitted by section 171. See paragraph (e)(2) of this section.

Example 4. Voluntary change—(i) *Facts.* The facts are the same as in *Example 1* except that X Corporation wants to cease using an overall accrual method for the educational institution and change to the cash receipts and disbursements method.

(ii) *Conclusion.* X Corporation must secure the Commissioner's consent to use the cash receipts and disbursements method for the educational institution by filing a Form 3115, Application for Change in Accounting Method, as described in paragraph (d)(2) of this section.

(b) *Definitions*—(1) *Accounting method* has the same meaning as provided in section 446 and any applicable regulations.

(2) *Special accounting method* is a method expressly permitted or required by the Code, Income Tax Regulations, or administrative guidance published in the Internal Revenue Bulletin that deviates from the normal application of the cash receipts and disbursements method or an accrual method. For example, the installment method under section 453 and the mark-to-market method under section 475 are special accounting methods. See § 1.446–1(c)(1)(iii).

(3) *Principal method* is an accounting method that is determined under paragraph (c) of this section.

(4) *Adopting an accounting method* has the same meaning as provided in § 1.446–1(e)(1).

(5) *Changing an accounting method* has the same meaning as provided in § 1.446–1(e)(2).

(6) *Acquiring corporation* has the same meaning as provided in § 1.381(a)-1(b)(2).

(7) *Distributor corporation* means the corporation, foreign or domestic, that distributes its assets to another corporation described in section 332(b) in a distribution to which section 332 (relating to liquidations of subsidiaries) applies.

(8) *Transferor corporation* means the corporation, foreign or domestic, that transfers its assets to another corporation in a transfer to which section 361 (relating to nonrecognition of gain or loss to corporations) applies, but only if—

(i) The transfer is in connection with a reorganization described in section 368(a)(1)(A), (C), or (F), or

(ii) The transfer is in connection with a reorganization described in section 368(a)(1)(D) or (G), provided the requirements of section 354(b) are met.

(9) *Parties to the section 381(a) transaction* means the acquiring corporation and the distributor or transferor corporation(s) that participate in a transaction to which section 381(a) applies.

(10) *Date of distribution or transfer* has the same meaning as provided in section 381(b)(2) and § 1.381(b)–(1)(b).

(11) *Separate and distinct trades or businesses* has the same meaning as provided in § 1.446–1(d).

(12) *Gross receipts* means all the receipts in the appropriate period that must be recognized under the acquiring corporation's and the distributor or transferor corporation's accounting method actually used in that period (determined without regard to this section) for federal income tax purposes. For example, gross receipts includes income from investments, amounts received for services, rents, total sales (net of returns and allowances) and interest.

(13) *Audit protection* means that the IRS will not require the corporation required to change its accounting method under this section to change its method for the same item for a taxable year prior to the taxable year of the section 381(a) transaction requiring the change in accounting method.

(14) *Section 481(a) adjustment* means an adjustment that must be taken into account as required under section 481(a) to prevent amounts from being duplicated or omitted when the taxable income of a taxpayer is computed under an accounting method different from the method used to compute taxable income for the preceding taxable year.

(15) *Cut-off basis* means an accounting method change made without a section 481(a) adjustment and under which only the items arising on or after the date the accounting method change is made are accounted for under the new accounting method.

(16) *Adjustment period* means the number of taxable years for taking into account the section 481(a) adjustment required as a result of an accounting method change.

(c) *Principal method*—(1) *In general.* The principal methods for the overall accounting method and for all accounting methods for particular items generally are the accounting methods used by the acquiring corporation immediately prior to the date of the section 381(a) transaction (acquiring

corporation's carryover method(s)). If, however, the acquiring corporation does not have an accounting method for a particular item or if the distributor or transferor corporation is larger, the principal methods are the methods used by the distributor or transferor corporation immediately prior to the date of the transaction (distributor or transferor corporation's carryover method). The distributor or transferor corporation is larger if the—

(i) Adjusted bases of the distributor or transferor corporation's assets (determined under section 1011 and the regulations thereunder) exceed the adjusted bases of the acquiring corporation's assets immediately prior to the date of distribution or transfer, and

(ii) The distributor or transferor corporation's gross receipts for a representative period (generally the most recent period of 12 consecutive calendar months ending on the date of distribution or transfer) exceed the acquiring corporation's gross receipts for the same period.

(2) *Examples.* The following examples illustrate the rules of this paragraph (c):

Example 1. Principal method is the acquiring corporation's carryover method—(i) *Facts.* X Corporation and T Corporation operate employment agencies. X Corporation uses the overall cash receipts and disbursements accounting method while T Corporation uses an overall accrual method. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies. The adjusted bases of X Corporation's assets immediately prior to the transaction exceed the adjusted bases of T Corporation's assets and X Corporation's gross receipts for the representative period are more than T Corporation's gross receipts for the period. The employment agencies are not operated as separate and distinct trades or businesses after the date of the distribution or transfer.

(ii) *Conclusion.* Because the adjusted bases of the assets and the gross receipts of X Corporation exceed the adjusted bases of the assets and the gross receipts of T Corporation, the accounting method used by X Corporation immediately prior to the date of the section 381(a) transaction is the principal method. After the section 381(a) transaction, X Corporation uses the cash receipts and disbursements method for the employment agency business operated by X Corporation prior to the section 381(a) transaction. X Corporation need not secure the Commissioner's consent to use this method. However, X Corporation must change the accounting method for the employment agency business acquired from T Corporation to the cash receipts and disbursements method and take into account the applicable section 481(a) adjustment as provided in paragraph (d)(1) of this section.

Example 2. Principal method is the acquiring corporation's carryover method—(i) *Facts.* The facts are the same as in *Example 1* except that T Corporation's gross receipts for the representative period exceed X Corporation's gross receipts.

(ii) *Conclusion.* Because the gross receipts of T Corporation exceed the gross receipts of X Corporation but the adjusted bases of the assets of T Corporation do not exceed the adjusted bases of the assets of X Corporation, the accounting method used by X Corporation immediately prior to the date of the section 381(a) transaction is the principal method. After the section 381(a) transaction, X Corporation will use the cash receipts and disbursements method for the employment agency business operated by X Corporation prior to the section 381(a) transaction. X Corporation need not secure the Commissioner's consent to use this method. However, X Corporation must change the accounting method for the employment agency business acquired from T Corporation to the cash receipts and disbursements method and take into account the applicable section 481(a) adjustment as provided in paragraph (d)(1) of this section.

Example 3. Principal method is the distributor or transferor corporation's carryover method—(i) *Facts.* The facts are the same as in *Example 1* except that the adjusted bases of T Corporation's assets immediately prior to the section 381(a) transaction exceed the adjusted bases of Corporation X's assets and T Corporation's gross receipts for the representative period are more than X Corporation's gross receipts for the period.

(ii) *Conclusion.* Because the adjusted bases of the assets and the gross receipts of T Corporation exceed the adjusted bases of the assets and the gross receipts of X Corporation, the accounting method used by T Corporation immediately prior to the date of the section 381(a) transaction is the principal method. After the section 381(a) transaction, X Corporation uses an overall accrual method for the employment agency business operated by T Corporation prior to the section 381(a) transaction. X Corporation need not secure the Commissioner's consent to use this method. However, X Corporation must change the accounting method for the employment agency business operated by X Corporation prior to the section 381(a) transaction to an overall accrual method and take into account the applicable section 481(a) adjustment as provided in paragraph (d)(1) of this section. If X Corporation chooses, it may request the Commissioner's consent to change to the cash receipts and disbursements method, if permissible, or some other permissible method as provided in paragraph (d)(2) of this section.

Example 4. Impermissible method—(i) *Facts.* The facts are the same as in *Example 1* except that X Corporation is prohibited under section 448 from using the cash receipts and disbursements method after the date of the section 381(a) transaction.

(ii) *Conclusion.* Because X Corporation is not permitted under section 448 to use the cash receipts and disbursements method, X Corporation must request permission to change to a permissible method as provided in paragraph (d)(2) of this section.

Example 5. Principal method is the acquiring corporation's carryover method with a special accounting method—(i) *Facts.* X Corporation and T Corporation publish magazines. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies. Both X Corporation and T Corporation use an overall accrual method. X Corporation has elected to defer income from its subscription sales under section 455. T Corporation has not elected to defer income from its subscription sales under section 455 and instead has recognized the income from these sales in accordance with section 451. The adjusted bases of X Corporation's assets immediately prior to the section 381(a) transaction exceed the adjusted bases of T Corporation's assets and X Corporation's gross receipts for the representative period are more than T Corporation's gross receipts for the period. The publication businesses are not operated as separate and distinct trades or businesses after the date of the distribution or transfer.

(ii) *Conclusion.* Because the adjusted bases of the assets and the gross receipts of X Corporation exceed the adjusted bases of the assets and the gross receipts of T Corporation, the accounting method used by X Corporation immediately prior to the date of the section 381(a) transaction is the principal method. After the section 381(a) transaction, X Corporation will continue to use its overall accrual method and the section 455 deferral method. X Corporation need not secure the Commissioner's consent to continue to use its overall accrual method and the section 455 deferral method. However, under paragraph (d)(1) of this section X Corporation must change its accounting method for the magazine business acquired from T Corporation to the section 455 deferral method using a cut-off basis.

Example 6. Principal method is the acquiring corporation's carryover method with a special accounting method—(i) *Facts.* The facts are the same as in *Example 5* except that T Corporation's gross receipts for the representative period exceed X Corporation's gross receipts for the period.

(ii) *Conclusion.* Because the gross receipts of T Corporation exceed the gross receipts of X Corporation but the adjusted bases of the assets of T Corporation do not exceed the adjusted bases of the assets of X Corporation, the accounting method used by X Corporation immediately prior to the date of the section 381(a) transaction is the principal method. After the section 381(a) transaction, X Corporation continues to use an overall accrual method and the section 455 deferral method. X Corporation need not secure the Commissioner's consent to continue to use an overall accrual method and the section 455 deferral method. However, under paragraph (d)(1) of this section X Corporation must change its accounting method for the magazine business acquired from T Corporation to the section 455 deferral method using a cut-off basis.

(d) *Procedures for changing accounting methods*—(1) *Change made to principal method*—(i) *Section 481(a) adjustment*—(A) *In general.* The acquiring corporation does not need to secure the Commissioner's consent to use a principal method. To the extent

use of a principal method constitutes a change in an accounting method, the change in accounting method is treated as a change initiated by the acquiring corporation for purposes of section 481(a)(2). Any change to a principal method under paragraph (c)(1) of this section, whether the change relates to the trade or business of the acquiring corporation or the trade or business of the distributor or transferor corporation, must be reflected on the acquiring corporation's federal income tax return for the taxable year that includes the date of distribution or transfer. The amount of the section 481(a) adjustment and the adjustment period, if any, necessary to implement this accounting method change are determined under § 1.446–1(e) and the applicable administrative procedures that govern voluntary changes in accounting methods under section 446(e). The appropriate section 481(a) adjustment as determined above is included in the taxable income of the acquiring corporation for the taxable year that includes the date of distribution or transfer and subsequent taxable year(s), as necessary. Thus, if the administrative procedures require that an accounting method change be implemented on a cut-off basis, the acquiring corporation must implement the change, on a cut-off basis as of the date of distribution or transfer, on its federal income tax return for the taxable year that includes the date of distribution or transfer. If the administrative procedures require a section 481(a) adjustment, the acquiring corporation must determine the section 481(a) adjustment and include the appropriate amount of the section 481(a) adjustment on its federal income tax return for the taxable year that includes the date of distribution or transfer and subsequent taxable year(s), as necessary. This adjustment is determined by the acquiring corporation as of the beginning of the day that is immediately after the day on which the section 381(a) transaction occurs.

(B) *Example.* The following example illustrates the rules of this paragraph (d)(1)(i):

Example. X Corporation uses the overall cash receipts and disbursements accounting method while T Corporation uses an overall accrual method. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies. X Corporation determines that under the rules of paragraph (c)(1) of this section, X Corporation must change the accounting method for the business acquired from T Corporation to the cash receipts and disbursements method. X Corporation will determine the section 481(a) adjustment pertaining to the change to the cash receipts and disbursements method by consolidating the adjustments (whether the amounts thereof represent increases or decreases in items of income or deductions) arising with respect to balances in the various accounts, such as accounts receivable, as of the beginning of the day that immediately follows the day on which X Corporation acquires the assets of T Corporation. This adjustment, or an appropriate part thereof, will be reflected on the federal income tax return filed by X Corporation for the taxable year that includes this section 381(a) transaction.

(ii) *Audit protection.* Notwithstanding any other provision in any other regulation or administrative procedure, no audit protection is provided for any change in accounting method under paragraph (d)(1)(i) of this section.

(iii) *Other terms and conditions.* Except as otherwise provided in this section, other terms and conditions provided in § 1.446–1(e) and the applicable administrative procedures that govern voluntary accounting method changes under section 446(e) apply to a change in accounting method under this section. Thus, for example, if the administrative procedures that govern a particular accounting method change have a term and condition that provides for the acceleration of the section 481(a) adjustment period, this term and condition applies to changes made under this paragraph (d)(1). Similarly, if the administrative procedures provide as a term and condition that an identical accounting method change is barred for a period of years, this term and condition applies to changes made under this paragraph (d)(1) to bar future changes of that accounting method, if identical, for the same period, but not changes to the principal method under this section.

(2) *Change made to an accounting method other than the principal method or a carryover method.* A party to a section 381(a) transaction that desires to change to an accounting method other than the principal method as determined under paragraph (c) of this section, or a carryover method within the meaning of paragraph (a)(2)(i) of this section, must follow the provisions of § 1.446–(1)(e) that govern the accounting method change, except that for an accounting method change requiring advance consent—

(i) Under the authority of § 1.446–1(e)(3)(ii), the application for accounting method change (for example, Form 3115) must be filed with the IRS on or before the later of—

(A) The due date for filing a Form 3115 as specified in § 1.446–1(e), for example, the last day of the taxable year in which the distribution or transfer occurred, or

(B) The earlier of—

(*1*) The day that is 180 days after the date of the distribution or transfer, or

(*2*) The day on which the acquiring corporation files its federal income tax return for the taxable year in which the distribution or transfer occurred; and

(*3*) An application on Form 3115 filed with the IRS should be labeled ''Filed under section 381(c)(4)'' at the top.

(e) *Rules and procedures*—(1) *No accounting method.* If a party to a section 381(a) transaction is not using an accounting method, does not have an accounting method for a particular item, or came into existence as a result of the transaction, the party will not be treated as having an accounting method different from that used by the other parties to the section 381(a) transaction.

(2) *Elections and adoptions allowed.* An acquiring corporation is not precluded by section 381(c)(4) or these regulations from making any election for the taxable year that includes the date of distribution or transfer that does not require the Commissioner's consent and that is otherwise permissible. Similarly, an acquiring corporation may adopt any accounting method in that year that is otherwise permissible.

(3) *Elections continue after section 381(a) transaction*—(i) *General rule.* The acquiring corporation is not required to renew any election previously made by it or by a distributor or transferor corporation with respect to a carryover method or principal method if the acquiring corporation uses the method after a section 381(a) transaction. Furthermore, an election previously made by an acquiring corporation or by a distributor or transferor corporation with respect to a method that is in effect immediately prior to the date of distribution or transfer continues to the same extent as though the distribution or transfer had not occurred.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (e)(3):

Example 1. Election continues. The acquiring corporation, X Corporation, has previously elected to treat animals purchased for dairy purposes as property used in its trade or business subject to depreciation after maturity while otherwise using the unit-livestock-price method. X Corporation's accounting method continues after its merger with T Corporation in a transaction to which section 381(a) applies. X Corporation is not required to renew its election, and is bound by it, after the section 381(a) transaction.

Example 2. Election continues. The acquiring corporation, X Corporation, has previously elected under section 171 to amortize bond premium with respect to taxable bonds. X Corporation's method for bond premium continues after T Corporation merges with X Corporation in a transaction to which section 381(a) applies. X

Corporation is not required to renew its election, and is bound by it, after the section 381(a) transaction.

(4) A*ppropriate times for determining the method used and trade or business character*—(i) *Determining the accounting method.* The accounting method existing at the time of a section 381(a) transaction is the method used immediately prior to the distribution or transfer by the parties to the transaction.

(ii) *Determining whether there are separate trades or businesses after a section 381(a) transaction.* Whether an acquiring corporation will operate the trades or businesses of the parties to a section 381(a) transaction as separate and distinct trades or businesses after the distribution or transfer will be determined as of the time of the transaction based upon the facts and circumstances. Intent to combine books and records of the trades or businesses may be demonstrated by contemporaneous records and documents or by other objective evidence that reflects the acquiring corporation's ultimate plan of operation, even though the actual combination of the books and records may extend beyond the end of the taxable year in which the section 381(a) transaction occurs.

(5) *Representative period for accumulating gross receipts.* If a party to the section 381(a) transaction was not in existence for the 12 consecutive months immediately prior to the date of distribution or transfer, then all parties to the section 381(a) transaction will compare their gross receipts for the period that the party was in existence. For example, if the acquiring corporation was formed in August and the section 381(a) transaction occurred in December of the same year, the gross receipts for those five months will be compared with the gross receipts of the other parties to the section 381(a) transaction for the same period.

(6) *Establishing an accounting method.* Notwithstanding any other provision in any other regulation or administrative procedure, an accounting method used by the distributor or transferor corporation immediately prior to the date of distribution or transfer that continues to be used by the acquiring corporation in the taxable year that includes the date of distribution or transfer is an established method of accounting for purposes of section 446(e).

(7) *Other applicable provisions.* Section 381(c)(4) and these regulations do not preempt any other section of the Code or regulations that is applicable to the acquiring corporation's circumstances. For example, income, deductions, credits, allowances, and exclusions may be allocated among the parties to a section 381(a) transaction and other taxpayers under sections 269 and 482, if appropriate. Similarly, transfers of contracts accounted for using a long-term contract accounting method are governed by the rules provided in § 1.460–4(k). Further, if other paragraphs of section 381(c) apply for purposes of determining accounting methods that carryover in a section 381(a) transaction, section 381(c)(4) and this § 1.381(c)(4)–1 will not apply to the tax treatment of the items. For example, section 381(c)(4) and these regulations do not apply to inventories that an acquiring corporation obtains in a transaction to which section 381(a) applies. Instead, the rules of section 381(c)(5) and § 1.381(c)(5)–1 govern the inventory method to be used by the acquiring corporation after the distribution or transfer. Similarly, if the acquiring corporation assumes an obligation of the distributor or transferor corporation that gives rise to a liability, within the meaning of § 1.381(c)(16)–1(a)(4), the deductibility of the item is determined under section 381(c)(4) and these regulations only after the rules of section 381(c)(16) and its regulations are applied.

(8) *Character of items of income and deduction.* Items of income and deduction have the same character in the hands of the acquiring corporation as they would have had in the hands of the distributor or transferor corporation if no distribution or transfer had occurred.

(9) *Accounting method selected by project or job.* If other sections of the Code or regulations permit an acquiring corporation to elect an accounting method on a project-by-project, job-by-job, or other similar basis, the method elected with respect to each project or job is the established method only for that project or job. For example, the election under section 460 to classify a ''hybrid contract,'' that is, a contract to perform both manufacturing and construction activities, as a long-term construction contract if at least 95 percent of the estimated total allocable contract costs are reasonably allocated to the construction activities is made on a contract-by-contract basis. Accordingly, the accounting method previously elected for a project or job generally continues after the section 381(a) transaction. However, if the trades or businesses of the parties to a section 381(a) transaction are not operated as separate and distinct trades or businesses after the date of distribution or transfer, and two or more of the parties to the section 381(a) transaction previously worked on the same project or job and used different accounting methods for the project or job immediately before the distribution or transfer, then the acquiring corporation must determine the method to use after the section 381(a) transaction as provided in paragraph (c) of this section.

(10) *Prohibited accounting methods.* An acquiring corporation may not use the accounting method determined under paragraph (a)(2) of this section if the method fails to reflect clearly the acquiring corporation's income within the meaning of section 446(b). Thus, section 381(c)(4) and these regulations do not limit, restrict, or otherwise prevent the Commissioner from requiring the use of another accounting method.

(f) *Effective/applicability date.* The rules of this section apply to corporate reorganizations and tax-free liquidations described in section 381(a) that occur on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 4. Section 1.381(c)(5)–1 is revised to read as follows:

§ 1.381(c)(5)–1 Inventory method.

(a) *Introduction*—(1) *Purpose.* This section provides guidance regarding the inventory accounting method an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(5) apply and how to implement any associated accounting method changes. See § 1.381(c)(4)–1 for guidance regarding the accounting method or combination of methods (other than inventory and depreciation accounting methods) an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(4) apply. See § 1.381(c)(6)–1 for guidance regarding the depreciation accounting methods an acquiring corporation must use following a distribution or transfer to which sections 381(a) and (c)(6) apply.

(2) *Carryover requirement*—(i) *In general.* In a transaction to which section 381(a) applies, if the acquiring corporation operates the trades or businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of the distribution or transfer, then the acquiring corporation generally must use the same accounting method(s) for inventory used by the distributor or transferor corporation(s) on the date of the section 381(a) transaction (carryover method). If the acquiring corporation does not operate the trades or

businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of distribution or transfer, then the acquiring corporation must use a principal method as determined under paragraph (c) of this section and must take into account any section 481(a) adjustment, if applicable, as required under paragraph (d)(1) of this section. The acquiring corporation need not secure the Commissioner's consent to continue or to use a permissible carryover method or principal method.

(ii) *Carryover method or principal method not permissible.* In general, if a carryover method or principal method is an impermissible accounting method, the acquiring corporation must secure the Commissioner's consent to change to a different accounting method as provided in paragraph (d)(2) of this section. If, however, a carryover method is impermissible solely because only a single inventory method with respect to a particular type of goods may be used by the acquiring corporation after the date of the section 381(a) transaction regardless of the number of separate and distinct trades or businesses operated on that date, the acquiring corporation must use a principal method as determined under paragraph (c) of this section.

(iii) *Voluntary change.* All parties to a section 381(a) transaction may request permission under section 446(e) to change an inventory accounting method for the taxable year in which the transaction occurs or is expected to occur. For trades or businesses that will not operate as separate trades or businesses after the section 381(a) transaction, an accounting method change will be granted only if the requested change is the method that the acquiring corporation must use after the date of the distribution or transfer in the taxable year that includes the section 381(a) transaction. The time and manner of obtaining the Commissioner's consent to change to a different inventory accounting method is described in paragraph (d)(2) of this section.

(iv) *Examples.* The following examples illustrate the rules of this paragraph (a):

Example 1. Separate and distinct trades or businesses after the date of the distribution or transfer—(i) *Facts.* X Corporation manufactures radios and television sets. X Corporation uses the first-in, first-out (FIFO) inventory method to identify its inventory goods, values the goods at cost, and capitalizes costs under section 263A. T Corporation manufactures washing machines and dryers. T Corporation uses the last-in, first-out (LIFO) inventory method to identify its inventory goods, values the goods at cost, and capitalizes costs under section 263A using methods other than those used by X Corporation. X Corporation acquires the inventory of T Corporation in a transaction to which section 381(a) applies. X Corporation operates the two manufacturing operations as separate and distinct trades or businesses after the date of the section 381(a) transaction.

(ii) *Conclusion.* After the section 381(a) transaction, for the business of manufacturing radios and television sets X Corporation will use the same FIFO inventory method to identify its inventory goods, value the goods at cost, and capitalize costs under section 263A using the methods it had previously used. For the business of manufacturing washing machines and dryers X Corporation will use the same LIFO inventory method to identify its inventory goods, value the goods at cost, and capitalize costs under section 263A using the methods previously used by T Corporation. X Corporation need not secure the Commissioner's consent to continue the inventory methods.

Example 2. Impermissible method—(i) *Facts.* X Corporation manufactures food and beverages. X Corporation uses the FIFO inventory method to identify its inventory goods, values the goods at cost, and capitalizes costs under section 263A. T Corporation sells sporting equipment. T Corporation uses the FIFO inventory method to identify its inventory goods, and values the goods at cost. T Corporation did not capitalize costs under section 263A because it met the small reseller exception under section 263A. X Corporation acquires the inventory of T Corporation in a transaction to which section 381(a) applies. X Corporation operates the food and beverage business and the sporting goods business as separate trades or businesses after the date of the section 381(a) transaction. After the section 381(a) transaction, X Corporation does not qualify for the small reseller exception under section 263A for its sporting equipment business.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will continue to identify its food and beverage inventory goods by using the FIFO inventory method, value the inventory at cost, and use its previously selected cost capitalization methods under section 263A as provided in paragraph (a)(2)(i) of this section. X Corporation will continue to identify its sporting equipment inventory goods by using the FIFO inventory method and value the inventory at cost in the same manner as T Corporation did prior to the section 381(a) transaction. X Corporation need not secure the Commissioner's consent to continue these inventory methods. Because X Corporation does not qualify for the small reseller exception under section 263A for its sporting equipment business, X Corporation must secure the Commissioner's consent to change to a permissible cost capitalization method under section 263A for the sporting equipment business. X Corporation must request this consent by filing a Form 3115, Application for Change in Accounting Method, using the procedures in paragraph (d)(2) of this section.

Example 3. Voluntary change—(i) *Facts.* The facts are the same as in *Example 1* except that X Corporation wants to cease valuing the radios and television sets at cost and change to the cost or market, whichever is lower, method.

(ii) *Conclusion.* X Corporation must secure the Commissioner's consent to use the cost or market, whichever is lower, method and must do so by filing a Form 3115 as described in paragraph (d)(2) of this section.

(b) *Definitions*—(1) *Inventory method* is a method used to account for merchandise on hand (including finished goods, work in process, and raw materials) at the beginning of a year for purposes of computing taxable income for that year. The term includes not only the method for identifying inventory, for example, the FIFO inventory method or the LIFO inventory method, but also all other methods necessary to account for merchandise.

(2) *Principal method* is an accounting method that is determined under paragraph (c) of this section.

(3) *Adopting an accounting method* has the same meaning as provided in § 1.446–1(e)(1).

(4) *Changing an accounting method* has the same meaning as provided in § 1.446–1(e)(2).

(5) *Acquiring corporation* has the same meaning as provided in § 1.381(a)–1(b)(2).

(6) *Distributor corporation* means the corporation, foreign or domestic, that distributes its assets to another corporation described in section 332(b) in a distribution to which section 332 (relating to liquidations of subsidiaries) applies.

(7) *Transferor corporation* means the corporation, foreign or domestic, that transfers its assets to another corporation in a transfer to which section 361 (relating to nonrecognition of gain or loss to corporations) applies, but only if—

(i) The transfer is in connection with a reorganization described in section 368(a)(1)(A), (C), or (F), or

(ii) The transfer is in connection with a reorganization described in section 368(a)(1)(D) or (G), provided the requirements of section 354(b) are met.

(8) *Parties to the section 381(a) transaction* means the acquiring corporation and the distributor or transferor corporation(s) involved in the transaction to which section 381(a) applies.

(9) *Date of distribution or transfer* has the same meaning as provided in section 381(b)(2) and § 1.381(b)–1(b).

(10) *Separate and distinct trades or businesses* has the same meaning as provided in § 1.446–1(d).

(11) *Audit protection* means that the IRS will not require the corporation

required to change its accounting method under this section to change its method for the same item for a taxable year prior to the taxable year of the section 381(a) transaction requiring the change in accounting method.

(12) *Section 481(a) adjustment* means an adjustment that must be taken into account as required under section 481(a) to prevent amounts from being duplicated or omitted when the taxable income of a taxpayer is computed under an accounting method different from the method used to compute taxable income for the preceding taxable year.

(13) *Cut-off basis* means an accounting method change made without a section 481(a) adjustment and under which only the goods arising on or after the date the accounting method change is made are accounted for under the new accounting method.

(14) *Adjustment period* means the number of taxable years for taking into account the section 481(a) adjustment required as a result of an accounting method change.

(c) *Principal method*—(1) *In general.* The principal method for a particular type of goods generally is the method used by the acquiring corporation for that type of goods immediately prior to the date of the section 381(a) transaction (acquiring corporation's carryover method). If, however, the acquiring corporation does not have an inventory accounting method for a particular type of goods or if the distributor or transferor corporation holds more inventory of that type of goods, the principal method for that type of goods is the method used by the distributor or transferor corporation for that type of goods immediately prior to the date of the transaction (distributor or transferor corporation's carryover method). The distributor or transferor corporation holds more inventory if, for a particular type of goods, the fair market value of the goods held by the distributor or transferor corporation exceeds the fair market value of the goods held by the acquiring corporation immediately prior to the date of distribution or transfer. Alternatively, as a simplifying convention, the acquiring corporation may elect to apply the preceding sentence to the value of the entire inventories of the distributor or transferor corporation and the acquiring corporation rather than to each particular type of goods.

(2) *Examples.* The following examples illustrate the rules of this paragraph (c):

Example 1. Principal method is the acquiring corporation's carryover method—(i) *Facts.* X Corporation and T Corporation are manufacturers of tennis equipment. Both X Corporation and T Corporation value their inventories at cost but use different methods to capitalize costs under section 263A. X Corporation uses the simplified production method without the historic absorption ratio election provided in § 1.263A–2(b)(3). T Corporation uses the simplified production method with the historic absorption ratio election provided in § 1.263A–2(b)(4). Furthermore, X Corporation identifies its inventory using the FIFO inventory method, while T Corporation identifies its inventory using the LIFO inventory method.

X Corporation acquires the inventory of T Corporation in a transaction to which section 381(a) applies. The manufacturing businesses are not operated as separate and distinct trades or businesses after the date of the distribution or transfer. Immediately prior to the acquisition, the fair market value of each particular type of goods in X Corporation's inventory exceeds the fair market value of each particular type of goods in T Corporation's inventory.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will continue to identify its inventory using the FIFO inventory method, value its inventory at cost, and use the simplified production method without the historic absorption ratio election because the FIFO inventory method is the principal method for identifying inventory, cost is the principal method for valuing inventories, and the simplified production method without the historic absorption ratio election is the principal method for allocating costs to ending inventory under section 263A. X Corporation need not secure the Commissioner's consent to use these methods. However, with respect to the inventory acquired from T Corporation, X Corporation will change the method of identifying inventory to the FIFO inventory method, use the simplified production method without the historic absorption ratio election, and take into account the applicable section 481(a) adjustment as provided in paragraph (d)(1) of this section. If X Corporation chooses, it may request the Commissioner's consent to change to another permissible method as provided in paragraph (d)(2) of this section.

Example 2. Principal method is the distributor or transferor corporation's carryover method—(i) *Facts.* The facts are the same as in *Example 1* except that the fair market value of each particular type of goods in T Corporation's inventory is in excess of the fair market value of each particular type of goods in X Corporation's inventory.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will identify its inventory using the LIFO inventory method used by T Corporation, value its inventories at cost, and use the simplified production method with the historic absorption ratio election, because the LIFO inventory method used by T Corporation is the principal method for identifying inventory, cost is the principal method for valuing inventories, and the simplified production method with the historic absorption ratio election is the principal method for allocating costs to ending inventory under section 263A. X Corporation need not secure the consent of the Commissioner to use these methods. However, with respect to the inventory manufactured by X Corporation prior to the section 381(a) transaction, X Corporation will change its methods as needed by using the procedures of paragraph (d)(1) of this section. Specifically, X Corporation will change its method of identifying inventory to the LIFO inventory method using a cut-off basis and change its cost capitalization method to the simplified production method with the historic absorption ratio election by taking into account the applicable section 481(a) adjustment. If X Corporation chooses, it may request the Commissioner's consent to change to another permissible method as provided in paragraph (d)(2) of this section.

Example 3. Principal method is the acquiring corporation's carryover method—(i) *Facts.* The facts are the same as in *Example 1* except that the fair market values of the inventories of X Corporation and T Corporation are identical.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will continue to identify its inventory using the FIFO inventory method, value its inventory at cost, and use the simplified production method without the historic absorption ratio election because the FIFO inventory method is the principal method for identifying inventory, cost is the principal method for valuing inventories, and the simplified production method without the historic absorption ratio election is the principal method for allocating costs to ending inventory under section 263A. X Corporation need not secure the Commissioner's consent to use these methods. However, with respect to the inventory acquired from T Corporation, X Corporation will change the method of identifying inventory to the FIFO inventory method, use the simplified production method without the historic absorption ratio election, and take into account the applicable section 481(a) adjustment as provided in paragraph (d)(1) of this section. If X Corporation chooses, it may request the Commissioner's consent to change to another permissible method as provided in paragraph (d)(2) of this section.

Example 4. Inventory convention elected—(i) *Facts.* X Corporation manufactures planes and T Corporation manufactures planes and pool tables. X Corporation identifies its inventory using the FIFO inventory method and values it at cost or market, whichever is lower, while T Corporation identifies its inventory using the LIFO inventory method and values it at cost. Both X Corporation and T Corporation use the same method to capitalize costs under section 263A.

X Corporation acquires the inventory of T Corporation in a transaction to which section 381(a) applies. The manufacturing businesses are not operated as separate and distinct trades or businesses after the date of the distribution or transfer. In lieu of determining the fair market value of each particular type of goods held on the date of distribution or transfer, X Corporation elects to value the entire inventories held by itself and T Corporation. Immediately prior to the acquisition, the fair market value of T Corporation's inventory exceeds the fair market value of X Corporation's inventory.

(ii) *Conclusion.* After the section 381(a) transaction, X Corporation will identify its

inventory using the LIFO inventory method used by T Corporation and value this inventory at cost because the LIFO inventory method used by T Corporation is the principal method for identifying inventory and cost is the principal method for valuing inventories. X Corporation need not secure the consent of the Commissioner to use these methods. However, with respect to the inventory manufactured by X Corporation prior to the section 381(a) transaction, X Corporation will change the method of identifying inventory to the LIFO inventory method on a cut-off basis as provided in paragraph (d)(1) of this section. The method used prior to the section 381(a) transaction to capitalize costs under section 263A continues after the transaction. If X Corporation chooses, it may request the Commissioner's consent to change to another permissible method as provided in paragraph (d)(2) of this section.

(d) *Procedures for changing accounting methods*—(1) *Change made to principal method*—(i) *Section 481(a) adjustment*—(A) *In general.* The acquiring corporation does not need to secure the Commissioner's consent to use a principal method. To the extent use of a principal method constitutes a change in an accounting method, the change in accounting method is treated as a change initiated by the acquiring corporation for purposes of section 481(a)(2). Any change to a principal method under paragraph (c) of this section, whether the change relates to the trade or business of the acquiring corporation or the trade or business of the distributor or transferor corporation, must be reflected on the acquiring corporation's federal income tax return for the taxable year that includes the date of distribution or transfer. The amount of the section 481(a) adjustment and the adjustment period, if any, necessary to implement this accounting method change are determined under § 1.446–1(e) and the applicable administrative procedures that govern voluntary changes in accounting methods under section 446(e). The appropriate section 481(a) adjustment as determined above is included in the taxable income of the acquiring corporation for the taxable year that includes the date of distribution or transfer and subsequent taxable year(s), as necessary. Thus, if the administrative procedures require that an accounting method change be implemented on a cut-off basis, the acquiring corporation must implement the change, on a cut-off basis as of the date of distribution or transfer, on its federal income tax return for the taxable year that includes the date of distribution or transfer. If the administrative procedures require a section 481(a) adjustment, the acquiring corporation must determine the section 481(a) adjustment and include the appropriate amount of the section 481(a) adjustment on its federal income tax return for the taxable year that includes the section 381(a) transaction and subsequent taxable year(s), as necessary. This adjustment is determined by the acquiring corporation as of the beginning of the day that is immediately after the day on which the section 381(a) transaction occurs.

(B) *Example.* The following example illustrates the rules of this paragraph (d)(1)(i):

Example. X Corporation uses the FIFO inventory method while T Corporation uses the LIFO inventory method. X Corporation acquires the assets of T Corporation in a transaction to which section 381(a) applies on July 15th. X Corporation determines that under the rules of paragraph (c)(1) of this section, X Corporation must change the inventory method for the business acquired from T Corporation to the FIFO inventory method. X Corporation will determine the section 481(a) adjustment pertaining to the change to the FIFO inventory method (whether the amounts thereof represent increases or decreases in income) as of the beginning of July 16th. This adjustment, or an appropriate part thereof, will be included in X Corporation's federal income tax return for the taxable year that includes July 15th.

(ii) *Audit protection.* Notwithstanding any other provision in any other regulation or administrative procedure, no audit protection is provided for any change in accounting method under paragraph (d)(1)(i) of this section.

(iii) *Other terms and conditions.* Except as otherwise provided in this section, other terms and conditions provided in § 1.446–1(e) and the applicable administrative procedures that govern voluntary changes in accounting methods under section 446(e) apply to a change in accounting method under this section. Thus, for example, if the administrative procedures that govern a particular accounting method change have a term and condition that provides for the acceleration of the section 481(a) adjustment period, this term and condition applies to changes made under this paragraph (d)(1). Similarly, if the administrative procedures provide as a term and condition that an identical accounting method change is barred for a period of years, this term and condition applies to changes made under this paragraph (d)(1) to bar future changes of that accounting method, if identical, for the same period, but not changes to the principal method under this section.

(2) *Change made to an accounting method other than the principal method or a carryover method.* A party to a section 381(a) transaction that desires to change to an accounting method other than the principal method as determined under paragraph (c) of this section, or a carryover method within the meaning of paragraph (a)(2)(i) of this section, must follow the provisions of § 1.446–(1)(e) that govern the accounting method change, except that for an accounting method change requiring advance consent—

(i) Under the authority of § 1.446–1(e)(3)(ii), the application for accounting method change (for example, Form 3115) must be filed with the IRS on or before the later of—

(A) The due date for filing a Form 3115 as specified in § 1.446–1(e), for example, the last day of the taxable year in which the distribution or transfer occurred, or

(B) The earlier of—

(*1*) The day that is 180 days after the date of the distribution or transfer, or

(*2*) The day on which the acquiring corporation files its federal income tax return for the taxable year in which the distribution or transfer occurred; and

(ii) An application on Form 3115 filed with the IRS should be labeled ''Filed under section 381(c)(5)'' at the top.

(e) *Rules and procedures*—(1) *Inventory method selected for a particular type of goods.* If other sections of the Code or Income Tax Regulations allow a taxpayer to elect an inventory method for a particular type of goods, the method elected with respect to those goods is the established inventory method only for those goods. For example, an election to use the LIFO inventory method to identify specified goods in inventory, such as certain products in finished goods, is the inventory method only for those products.

(2) *No accounting method.* If a party to a section 381(a) transaction is not using an inventory method, does not have a particular type of goods immediately prior to the date of distribution or transfer, or came into existence as a result of the transaction, the party will not be treated as having an inventory accounting method different from that used by the other parties to the section 381(a) transaction.

(3) *Elections and adoptions allowed.* An acquiring corporation is not precluded by section 381(c)(5) or these regulations from making any election for the taxable year that includes the date of distribution or transfer that does not require the Commissioner's consent and that is otherwise permissible. Similarly, an acquiring corporation may adopt any accounting method in that year that is otherwise permissible. For example, an acquiring corporation may elect to identify its inventory using the LIFO

inventory method in the year of the distribution or transfer.

(4) *Elections continue after section 381(a) transaction.* The acquiring corporation is not required to renew any election previously made by it or by a distributor or transferor corporation with respect to a carryover method or principal method if the acquiring corporation uses the method after a section 381(a) transaction. Furthermore, an election previously made by an acquiring corporation or by a distributor or transferor corporation with respect to a method that is in effect immediately prior to the date of distribution or transfer continues to the same extent as though the distribution or transfer had not occurred. For example, when the acquiring corporation has elected to use the LIFO inventory method under section 472 prior to the date of the section 381(a) transaction and the method continues after the transaction, the acquiring corporation need not renew this inventory election and is bound by it after the date of the transaction.

(5) *Adopting the LIFO inventory method.* A party to a section 381(a) transaction will be deemed to be using the LIFO inventory method with respect to a particular type of goods on the date of distribution or transfer if such party elects under section 472 to adopt that inventory method with respect to those goods for its taxable year within which the date of distribution or transfer occurs. See section 472 for the requirements to adopt the LIFO inventory method.

(6) *Inventory layers treatment*—(i) *Adjustments required after a section 381(a) transaction.* An acquiring corporation that determines the principal method of taking an inventory after a section 381(a) transaction under paragraph (c) of this section may need to integrate inventories and make appropriate adjustments as provided in paragraphs (e)(6)(ii) and (iii) of this section.

(ii) *LIFO inventory method used after the section 381(a) transaction*—(A) *LIFO inventory method used by the distributor or transferor corporation*—(1) *Dollar-value method.* If an acquiring corporation is required to use the LIFO dollar-value method of pricing inventories (dollar-value method) for a particular type of goods for its taxable year that includes the date of the section 381(a) transaction, and immediately prior to the distribution or transfer the distributor or transferor corporation used the specific goods method of pricing inventories for that particular type of goods, the inventory of the distributor or transferor corporation shall be placed on the dollar-value method as provided in § 1.472–8(f), and then the inventory shall be integrated with the inventory of the acquiring corporation. If pools of each corporation are required to be combined, the pools shall be combined as provided in § 1.472–8(g)(2). For purposes of combining pools, all base-year inventories or layers of increment that occur in taxable years including the same December 31 shall be combined. A base-year inventory or layer of increment occurring in any short taxable year not including a December 31, or in the final taxable year of a distributor or transferor corporation, shall be merged with and considered a layer of increment of its immediately preceding taxable year.

(2) *Specific goods method.* If an acquiring corporation is required to use the specific goods method of pricing inventories for a particular type of goods for its taxable year that includes the date of the section 381(a) transaction, and immediately prior to the distribution or transfer the distributor or transferor corporation used the LIFO inventory method for that particular type of goods, the inventory shall be treated by the acquiring corporation as having the acquisition dates and costs of the distributor or transferor corporation.

(B) *LIFO inventory method not used by the distributor or transferor corporation.* If an acquiring corporation is required to use the LIFO inventory method for a particular type of goods for its taxable year that includes the date of the section 381(a) transaction, and immediately prior to the distribution or transfer the distributor or transferor corporation did not use the LIFO inventory method for that particular type of goods, the inventory shall be treated by the acquiring corporation as having been acquired at average unit cost in a single transaction on the date of the distribution or transfer. Thus, if an inventory of a particular type of goods is combined in an existing dollar-value pool, the goods shall be treated as if they were purchased by the acquiring corporation at the average unit cost on the date of the distribution or transfer with respect to such pool. Alternatively, if the goods are not combined in an existing pool, the goods will be treated as if they were purchased by the acquiring corporation at the average unit cost on the date of the distribution or transfer with respect to a new pool, with the base year being the year of the section 381(a) transaction. Adjustments resulting from a restoration to cost of any write-down to market value of the inventories of a distributor or transferor corporation shall be taken into account by the distributor or transferor corporation in its final taxable year ending on the date of the distribution or transfer. See section 472(d).

(iii) *FIFO inventory method used after the section 381(a) transaction*—(A) *FIFO inventory method used by the distributor or transferor corporation.* If an acquiring corporation is required to use the FIFO inventory method for a particular type of goods for its taxable year that includes the date of the section 381(a) transaction, and immediately prior to the distribution or transfer the distributor or transferor corporation used the FIFO inventory method for that particular type of goods, the inventory of that type of goods shall be treated by the acquiring corporation as having the same acquisition dates and costs as the distributor or transferor corporation. However, if the acquiring corporation values its inventories at cost or market, whichever is lower, the acquiring corporation shall treat the inventories of the distributor or transferor corporation as having been acquired at cost or market, whichever is lower.

(B) *FIFO inventory method not used by the distributor or transferor corporation.* If an acquiring corporation is required to use the FIFO inventory method for a particular type of goods for its taxable year that includes the date of the section 381(a) transaction, and immediately prior to the distribution or transfer the distributor or transferor corporation did not use the FIFO inventory method for that particular type of goods, the inventory of the distributor or transferor corporation shall be treated by the acquiring corporation as having the same acquisition dates and costs that the inventory would have had if the distributor or transferor corporation had been using the FIFO inventory method for its taxable year ending on the date of distribution or transfer. However, if the acquiring corporation values its inventories at cost or market, whichever is lower, the acquiring corporation shall treat the acquired inventories as having been acquired at cost or market, whichever is lower.

(7) *Appropriate times for determining the method used and trade or business character*—(i) *Determining the accounting method.* The accounting method existing at the time of a section 381(a) transaction is the method used immediately prior to the date of distribution or transfer by the parties to the transaction.

(ii) *Determining whether there are separate trades or businesses after a section 381(a) transaction.* Whether an acquiring corporation will operate the trades or businesses of the parties to a

section 381(a) transaction as separate and distinct trades or businesses after the distribution or transfer will be determined at the time of the transaction based upon the facts and circumstances. Intent to combine books and records of the trades or businesses may be demonstrated by contemporaneous records and documents or by other objective evidence that reflects the acquiring corporation's ultimate plan of operation, even though the actual combination of the books and records may extend beyond the end of the taxable year in which the section 381(a) transaction occurs.

(8) *Establishing an accounting method for taking an inventory.* Notwithstanding any other provision in any other regulation or administrative procedure, an accounting method used by the distributor or transferor corporation immediately prior to the date of distribution or transfer that continues to be used by the acquiring corporation in the taxable year that includes the date of distribution or transfer is an established method of accounting for purposes of section 446(e).

(9) *Other applicable provisions.* Section 381(c)(5) and these regulations do not preempt any other section of the Code or regulations that is applicable to the acquiring corporation's circumstances. Section 381(c)(5) and this § 1.381(c)(5)–1 determine only the inventory method to be used after a section 381(a) transaction. Specifically, section 381(c)(5) and this § 1.381(c)(5)–1 do not apply to assets other than inventory that an acquiring corporation obtains in a transaction to which section 381(a) applies.

(10) *Use of the cash receipts and disbursements method.* If a party to a section 381(a) transaction uses the cash receipts and disbursements method within the meaning of section 446(c)(1) and § 1.446–1(c)(1)(i), or is not required to use inventory accounting methods for its goods, immediately prior to the date of distribution or transfer, section 381(c)(5) and § 1.381(c)(5)–1 do not apply. Section 381(c)(4) and § 1.381(c)(4)–1 must be applied to determine the accounting methods that continue after the transaction.

(11) *Character of items of income and deduction.* Items of income and deduction have the same character in the hands of the acquiring corporation as they would have had in the hands of the distributor or transferor corporation if no distribution or transfer had occurred.

(12) *Prohibited methods.* An acquiring corporation may not use the accounting method determined under paragraph (a)(2) of this section if the method fails to reflect clearly the acquiring corporation's income within the meaning of section 446(b). Thus, section 381(c)(5) and these regulations do not limit, restrict, or otherwise prevent the Commissioner from requiring the use of another accounting method.

(f) *Effective/applicability date.* The rules of this section apply to corporate reorganizations and tax-free liquidations described in section 381(a) that occur on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 5. Section 1.446–1 is amended by:

1. Revising the first sentence in paragraph (e)(3)(i) and adding a new second sentence.

2. Revising the first sentence in paragraph (e)(4)(i).

3. Adding paragraph (e)(4)(iii).

The revisions and addition read as follows:

§ 1.446–1 General rule for methods of accounting.

* * * * *

(e) * * *

(3) * * * (i) Except as otherwise provided under the authority of paragraph (e)(3)(ii) of this section, to secure the Commissioner's consent to a taxpayer's change in method of accounting, the taxpayer generally must file an application on Form 3115 with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting. See §§ 1.381(c)(4)–1(d)(2) and 1.381(c)(5)–1(d)(2) for rules allowing additional time, in some circumstances, for the filing of an application on Form 3115 with respect to a transaction to which section 381(a) applies.

* * * * *

(4) * * * (i) *In general.* Except as provided in paragraphs (e)(3)(iii), (e)(4)(ii) and (e)(4)(iii) of this section, paragraph (e) of this section applies on or after December 30, 2003.

* * * * *

(iii) *Effective/applicability date for paragraph (e)(3)(i).* The rules of paragraph (e)(3)(i) of this section apply to corporate reorganizations and tax-free liquidations described in section 381(a) that occur on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–22411 Filed 11–15–07; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1250, 1251, and 1256

[NARA–07–0006]

RIN 3095–AB32

Testimony by NARA Employees Relating to Agency Information and Production of Records in Legal Proceedings

AGENCY: National Archives and Records Administration.

ACTION: Proposed rule.

SUMMARY: The National Archives and Records Administration (NARA) is proposing to revise its regulations relating to demands for records or testimony in legal proceedings. The rule is intended to facilitate access to records in NARA's custody, centralize agency decisionmaking in response to demands for records or testimony, minimize the disruption of official duties in complying with demands, maintain agency control over the release of agency information, and protect the interests of the United States. The proposed rule affects parties to lawsuits and their counsel.

DATES: Comments must be received by January 15, 2008.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax*: Submit comments by facsimile transmission to 301–837–0319.
- *Mail*: Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.
- *Hand Delivery or Courier*: Deliver comments to 8601 Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Laura McCarthy at (301) 837–3023 or via fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: NARA regularly receives subpoenas and other

demands for information, including requests for documents and for NARA employees to provide testimony in legal proceedings in which the United States may or may not be a party. This rule contains NARA's policy and procedures in response to demands for testimony or records in legal proceedings. In addition, this rule consolidates existing regulations and applies to demands in legal proceedings where the United States is a party and to demands in legal proceedings where the United States is not a party.

Many agencies have issued regulations concerning agency responses to demands where the United States is not a party. The courts recognize the authority of Federal agencies to limit compliance with demands in such circumstances; see for example, *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). NARA's proposed rule applies whether or not the United States is a party to the legal proceeding. NARA believes that this is appropriate because our receipt of a demand in a legal proceeding whether or not the United States is a party to the proceeding raises many of the same concerns. Consolidating our existing regulations also assists third parties in easily locating NARA's policy and procedures concerning demands in legal proceedings.

NARA has in its possession the following type of records:

- Permanently-valuable Federal records, Presidential records, donated and deposited historical materials in the National Archives of the United States;
- Records belonging to Federal agencies other than NARA that are in NARA's temporary physical custody;
- Records of defunct agencies that have no successor in function; and
- NARA's own operational records.

NARA's responsibility to manage, preserve, arrange, describe, or provide access to those records places the agency in a unique position in the Federal government regarding demands for records and testimony.

Requests for records that are not classified as demands are treated as requests for records under one of the following authorities: the Freedom of Information Act (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); the Federal Records Act and its implementing regulations (44 U.S.C. chs. 21, 29, 31, 33; 36 CFR parts 1250–1256); the Presidential Records Act and its implementing regulations (44 U.S.C. ch. 22; 36 CFR part 1270); or the Presidential Recordings and Materials Preservation Act and its implementing regulations (44 U.S.C. 2111 note; 36 CFR part 1275). This rule does not restrict access to records under those authorities.

This rule applies certain restrictions to testimony by NARA employees in legal proceedings. These restrictions apply whether or not the United States is a party to the proceeding. Authorization for employees to provide such testimony is based upon the following:

- The applicability of the Federal Rules of Civil Procedure;
- A determination by NARA's General Counsel that NARA has a significant interest in the legal proceeding and that the outcome may affect the implementation of present policies (NARA's Inspector General makes the determination as to whether an employee of NARA's Office of the Inspector General may provide such testimony); or
- Other circumstances or conditions make it necessary to provide the testimony in the public interest.

These restrictions are necessary to minimize the disruption of NARA's official business, and to protect the agency's human and financial resources. NARA employees are not authorized to testify about the content of records in NARA's physical custody when the legal title of such records belongs to another Federal agency. However, NARA can provide a copy of such records and certify that the copy is a true and accurate copy of the records in NARA's physical or legal custody. Such copies have the same legal status as the original record, and when produced under seal, must be judicially noted by all Federal, state, and local courts. See 44 U.S.C. 2116.

This rule does not apply in instances where an employee is requested to appear in adjudicative, legislative, or administrative proceedings that are unrelated to information concerning Federal activities or the employee's duties at NARA. Also, this rule does not apply to subpoenas or requests for information submitted by either House of Congress or by a Congressional committee or subcommittee with jurisdiction over the matter that the testimony or information is requested.

Paperwork Reduction Act

This proposed rule contains information collection activities that are subject to review and approval by OMB under the Paperwork Reduction Act of 1995.

The reporting burden for this collection is estimated to be approximately 1.5 hours per response for providing to NARA the information specified in proposed § 1251.10, including the time for gathering and maintaining the data needed and completing and reviewing the collection of information. A requestor who produces a demand to a NARA employee to produce documents or testimony would be required to submit the demand in writing to an appropriate party as specified in § 1251.6; a demand issued by, or under color of a state or local court must be signed by a judge. The information would be collected on a one-time basis, at least 45 days before the date the records or testimony is required. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of NARA's functions, including whether the information would have practical utility; (b) the accuracy of NARA'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 the use of automated collection techniques of other forms of information technology.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small entities because NARA receives fewer than 25 demands per year for testimony from individuals and small entities.

List of Subjects

36 CFR Part 1250

Confidential business information, Freedom of information.

36 CFR Part 1251

Administrative practice and procedure.

36 CFR Part 1256

Archives and records, Copyright, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, NARA proposes to amend Subchapter C of 36 CFR Ch. XII as follows:

PART 1250—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

1. The authority citation for part 1250 continues to read as follows:

Authority: 44 U.S.C. 2104(a), 2204; 5 U.S.C. 552; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

§ 1250.84 [Removed]

2. Remove § 1250.84.

3. Add a new Part 1251 to read as follows:

PART 1251—TESTIMONY BY NARA EMPLOYEES RELATING TO AGENCY INFORMATION AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Sec.

1251.1 What is the purpose of this part?
1251.2 To what demands does this part apply?
1251.3 What definitions apply to this part?
1251.4 May employees provide records or give testimony in response to a demand without authorization?
1251.6 How does the General Counsel determine whether to comply with a demand for records or testimony?
1251.8 Who is authorized to accept service of a subpoena demanding the production of records or testimony?
1251.10 What are the filing requirements for a demand for documents or testimony?
1251.12 How does NARA process your demand?
1251.14 Who makes the final determination on compliance with demands for records or testimony?
1251.16 Are there any restrictions that apply to testimony?
1251.18 Are there any restrictions that apply to the production of records?
1251.20 Are there any fees associated with producing records or providing testimony?
1251.22 Are there penalties for providing records or testimony in violation of this part?

Authority: 44 U.S.C. 2104; 44 U.S.C. 2108; 44 U.S.C. 2109; 44 U.S.C. 2111 note; 44 U.S.C. 2112; 44 U.S.C. 2116; 44 U.S.C. ch. 22; 44 U.S.C. 3102.

§ 1251.1 What is the purpose of this part?

(a) This part provides the policies and procedures to follow when submitting a demand to an employee of the National Archives and Records Administration (NARA) to produce records or provide testimony relating to agency information in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of records or agency information.

(b) The National Archives and Records Administration intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize NARA's role in controversial issues not related to its mission;

(3) Maintain NARA's impartiality among private litigants when NARA is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of NARA.

(c) In providing for these requirements, NARA does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of NARA. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 1251.2 To what demands does this part apply?

This part applies to demands to NARA employees for factual or expert testimony relating to agency information, or for production of records, in legal proceedings whether or not NARA is a named party. However, it does not apply to:

(a) Demands upon or requests for a NARA employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of NARA;

(b) Demands upon or requests for a former NARA employee to testify as to matters in which the former employee was not directly or materially involved while at NARA;

(c) Requests for the release of, or access to, records under the Freedom of Information Act, 5 U.S.C. 552, as amended; the Privacy Act, 5 U.S.C. 552a; the Federal Records Act, 44 U.S.C. chs. 21, 29, 31, 33; the Presidential Records Act, 44 U.S.C. ch. 22; or the Presidential Recordings and Materials Preservation Act, 44 U.S.C. 2111 note;

(d) Demands for records or testimony in matters before the Equal Employment Opportunity Commission or the Merit Systems Protection Board; and

(e) Congressional demands and requests for testimony or records.

§ 1251.3 What definitions apply to this part?

The following definitions apply to this part:

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records in a legal proceeding, or for the appearance and testimony of a NARA employee in a legal proceeding.

General Counsel means the General Counsel of NARA or a person to whom the General Counsel has delegated authority under this part. General Counsel also means the Inspector General of NARA (or a person to whom the Inspector General has delegated authority under this part) when a demand is made for records of NARA's Office of the Inspector General, or for the testimony of an employee of NARA's Office of the Inspector General.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

NARA means the National Archives and Records Administration.

NARA employee or employee means:

(1) Any current or former officer or employee of NARA, except that this definition does not include former NARA employees who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with NARA;

(2) Any other individual hired through contractual agreement by or on behalf of NARA or who has performed or is performing services under such an agreement for NARA; and

(3) Any individual who served or is serving in any consulting or advisory capacity to NARA, whether formal or informal.

Records or agency information means:

(1) All documents and materials which are NARA agency records under the Freedom of Information Act, 5 U.S.C. 552, as amended;

(2) Presidential records as defined in 44 U.S.C. 2201; historical materials as defined in 44 U.S.C. 2101; records as defined in 44 U.S.C. 2107 and 44 U.S.C. 3301.

(3) All other documents and materials contained in NARA files; and

(4) All other information or materials acquired by a NARA employee in the performance of his or her official duties or because of his or her official status.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 1251.4 May employees provide records or give testimony in response to a demand without authorization?

No, except as otherwise permitted by this part, no employee may produce records and information or provide any testimony relating to agency information in response to a demand without the prior, written approval of the General Counsel.

§ 1251.6 How does the General Counsel determine whether to comply with a demand for records or testimony?

The General Counsel may consider the following factors in determining

whether or not to grant an employee permission to testify on matters relating to agency information, or produce records in response to a demand:

(a) NARA's compliance with the demand is required by federal law, regulation or rule, or is otherwise permitted by this part;

(b) The purposes of this part are met;

(c) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(d) NARA has an interest in the decision that may be rendered in the legal proceeding;

(e) Allowing such testimony or production of records would assist or hinder NARA in performing its statutory duties;

(f) Allowing such testimony or production of records would involve a substantial use of NARA resources;

(g) Responding to the demand would interfere with the ability of NARA employees to do their work;

(h) Allowing such testimony or production of records would be in the best interest of NARA or the United States;

(i) The records or testimony can be obtained from the publicly available records of NARA or from other sources;

(j) The demand is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand arose;

(k) Disclosure would violate a statute, Executive Order or regulation;

(l) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;

(m) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights;

(n) Disclosure would result in NARA appearing to favor one litigant over another;

(o) Disclosure relates to documents that were produced by another agency;

(p) A substantial Government interest is implicated;

(q) The demand is within the authority of the party making it; and

(r) The demand is sufficiently specific to be answered.

§ 1251.8 Who is authorized to accept service of a subpoena demanding the production of records or testimony?

(a) Demands for testimony, except those involving an employee of NARA's Office of the Inspector General, must be addressed to, and served on, the General Counsel, National Archives and Records Administration, Suite 3110, 8601 Adelphi Road, College Park, MD 20740–6001. Demands for the testimony of an employee of NARA's Office of the Inspector General must be addressed to, and served on, the Inspector General, National Archives and Records Administration, Suite 1300, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) Demands for the production of NARA operational records, except those of the Office of the Inspector General, must be addressed to, and served on, the General Counsel. Demands for records of the Inspector General must be addressed to, and served on, the Inspector General. Please note that in accordance with section (b)(11) of the Privacy Act, 5 U.S.C. § 552a, demands for operational records kept in a Privacy Act system of records require the signature of a court of competent jurisdiction. See *Doe* v. *Digenova*, 779 F.2d 74 (D.C. Cir. 1985); *Stiles* v. *Atlanta Gas Light Company*, 453 F. Supp. 798 (N.D. Ga. 1978). This generally means that the demand must be signed by a judge or some other competent entity, not an attorney or court clerk.

(c) Demands for the production of records stored in a Federal Records Center (FRC) must be addressed to, and served on, the director of the FRC where the records are stored. NARA honors the demand to the extent required by law, if the agency having legal title to the records has not imposed any restrictions. If the agency has imposed restrictions, NARA notifies the authority issuing the demand that NARA abides by the agency-imposed restrictions and refers the authority to the agency for further action. See § 1251.8(b) for demands for NARA operational records kept in a Privacy Act system of records.

(d) Demands for the production of materials designated as Federal archival records, Presidential records or donated historical materials administered by NARA must be addressed to, and served on, the appropriate Assistant Archivist, Director of Archival Operations, or Presidential Library Director. An information copy of the demand must be sent to the General Counsel.

(e) For matters where the United States is a party, the Department of Justice should contact the General Counsel instead of submitting a demand for records or testimony.

(f) Contact information for each NARA facility may be found at 36 CFR part 1253.

§ 1251.10 What are the filing requirements for a demand for documents or testimony?

You must comply with the following requirements, as appropriate, whenever you issue a demand to a NARA employee for records, agency information or testimony:

(a) Your demand must be in writing and must be served on the appropriate party as identified in § 1251.6. A demand issued by, or under color of, a state or local court must be signed by a judge.

(b) Your written demand (other than a demand pursuant to rule 45 of the Federal Rules of Civil Procedure, in which case you must comply with the requirements of that rule) must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on NARA to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than a NARA employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used instead of testimony;

(7) A description of all previous decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties may require with each NARA employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The National Archives and Records Administration reserves the right to require additional information to comply with your demand.

(d) Your demand should be submitted at least 45 days before the date that records or testimony is required. Demands submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your demand.

(f) The information collection contained in this section has been approved by the Office of Management and Budget under the Paperwork Reduction Act as by OMB under the control number 3095–0038 with a current expiration date of May 31, 2008.

§ 1251.12 How does NARA process your demand?

(a) After service of a demand for production of records or for testimony, an appropriate NARA official reviews the demand and, in accordance with the provisions of this subpart, determines whether, or under what conditions, to produce records or authorize the employee to testify on matters relating to agency information.

(b) The National Archives and Records Administration processes demands in the order in which we receive them. Absent exigent or unusual circumstances, NARA responds within 45 days from the date of receipt. The time for response depends upon the scope of the demand.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of NARA or the United States or for other good cause.

§ 1251.14 Who makes the final determination on compliance with demands for records or testimony?

The General Counsel makes the final determination on demands to employees for testimony. The appropriate NARA official, as described in § 1251.8, makes the final determination on demands for the production of records. The NARA official notifies the requester and the court or other authority of the final determination and any conditions that may be imposed on the release of records or information, or on the testimony of a NARA employee. If the NARA official deems it appropriate not to comply with the demand, the official communicates the reasons for the noncompliance as appropriate.

§ 1251.16 Are there any restrictions that apply to testimony?

(a) The General Counsel may impose conditions or restrictions on the testimony of NARA employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) NARA may offer the employee's written declaration instead of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee must not:

(1) Disclose confidential or privileged information; or

(2) For a current NARA employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of NARA unless testimony is being given on behalf of the United States.

§ 1251.18 Are there any restrictions that apply to the production of records?

(a) The General Counsel may impose conditions or restrictions on the release of records and agency information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, NARA may condition the release of records and agency information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original NARA records may be presented for examination in response to a demand, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official NARA records, nor are they to be marked or altered. Instead of the original records, NARA provides certified copies for evidentiary purposes (see 28 U.S.C. 1733; 44 U.S.C. 2116). Such copies must be given judicial notice and must be admitted into evidence equally with the originals from which they were made (see 44 U.S.C. 2116).

§ 1251.20 Are there any fees associated with producing records or providing testimony?

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to NARA.

(b) *Fees for records.* Fees for producing records include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time are calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication are the same as those charged by NARA in part 1258 of this title.

(c) *Witness fees.* Fees for attendance by a witness include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees are determined based upon the rule of the Federal district court closest to the location where the witness appears. Such fees include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) *Payment of fees.* You must submit pay for fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the following:

(1) witness fees for current NARA employees are made payable to the Treasury of the United States;

(2) applicable fees paid to former NARA employees providing testimony must be paid directly in accordance with 28 U.S.C. 1821 or other applicable statutes; and

(3) fees for the production of records, including records certification fees, are made payable to the National Archives Trust Fund (NATF).

(e) *Certification (authentication) of copies of records.* The National Archives and Records Administration may certify that records are true copies in order to facilitate their use as evidence. Request certified copies from NARA at least 45 days before the date they are needed. We charge a certification fee for each document certified.

(f) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(g) *De minimis fees.* Fees are not assessed if the total charge is $10.00 or

less, or as otherwise stated in NARA policy.

§ 1251.22 Are there any penalties for providing records or testimony in violation of this part?

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by NARA or as ordered by a Federal court after NARA has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former NARA employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current NARA employee who testifies or produces official records and information in violation of this part is subject to disciplinary action.

PART 1256—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

4. The authority citation for part 1256 continues to read as follows:

Authority: 44 U.S.C. 2101–2118; 22 U.S.C. 1461(b); 5 U.S.C. 552; E.O. 12958 (60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 13292, 68 FR 15315, 3 CFR, 2003 Comp., p. 196; E.O. 13233, 66 FR 56023, 3 CFR, 2001 Comp., p. 815.

§ 1256.4 [Removed]

5. Remove § 1256.4.

Dated: November 9, 2007.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E7–22494 Filed 11–15–07; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR–2004–0091; FRL–8496–1]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule—Consistency Update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portions of the OCS air regulations that are being updated pertain to the requirements for OCS sources by the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD), and Ventura County Air Pollution Control District (Ventura County APCD). The intended effect of approving the OCS requirements for the Santa Barbara County APCD, South Coast AQMD, and Ventura County APCD is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Any comments must arrive by December 17, 2007.

ADDRESSES: Submit comments, identified by docket number OAR–2004–0091, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information
Why is EPA taking this action?
II. EPA's Evaluation
A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?
B. What requirements were submitted to update 40 CFR part 55?
III. Administrative Requirements
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Coordination With Indian Tribal Government
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act

I. Background Information

Why is EPA taking this action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements submitted by the Santa Barbara County APCD, South Coast AQMD and Ventura County APCD. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What requirements were submitted to update 40 CFR part 55?

1. After review of the requirements submitted by the Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources:

Rule No.	Name	Repealed date
106	Notice To Comply for Minor Violations	09/12/06

2. After review of the requirements submitted by the South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources:

Rule No.	Name	Adoption or amended date
219	Equipment Not Requiring a Written Permit Pursuant to Regulation II	6/1/07
301	Permitting and Associated Fees	5/7/07
304	Equipment, Materials, and Ambient Air Analyses	5/7/07
304.1	Analyses Fees	5/7/07
305	Fees for Acid Deposition Research (Rescinded)	6/9/06
306	Plan Fees	5/4/07
309	Fees for Regulation XVI	5/7/07
Reg. IX	New Source Performance Standards	4/6/07
1107	Coating of Metal Parts and Products	1/6/06
1113	Architectural Coatings	6/9/06
1132	Further Control of VOC Emissions From High-Emitting Spray Booth Facilities	5/5/06
1146.2	Emission of Oxides of Nitrogen From Large Water Heaters and Small Boilers	5/5/06
1162	Polyester Resin Operations	7/8/05
1171	Solvent Cleaning Operations	7/14/06
1173	Control of Volatile Organic Compound Leaks and Releases From Components at Petroleum Facilities and Chemical Plants.	6/1/07
1178	Further Reductions of VOC Emissions From Storage Tanks at Petroleum Facilities	4/7/06
1403	Asbestos Emissions From Demolition/Renovation Activities	11/6/06
1470	Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines	6/1/07
2004	Requirements	4/6/07
2007	Trading Requirements	4/6/07
2010	Administrative Remedies and Sanctions	4/6/07

3. After review of the requirements submitted by the Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources:

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

Rule No.	Name	Adoption or amended date
42	Permit Fees	4/10/07

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (''OMB'') review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB Review. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request (''ICR'') No. 1601.06 was published in the **Federal Register** on March 1, 2006 (71 FR 10499–10500). The approval expires January 31, 2009. As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 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; 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.

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 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

These rules will not have a significant economic impact on a substantial number of small entities. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million of more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with

the regulatory requirements. Today's proposed rules contain no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

E. Executive Order 13132, Federalism

Executive Orders 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. These rules do not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed rule from State and local officials.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes and thus does not have ''tribal implications,'' within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175. Nonetheless, in the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribes, EPA specifically solicits comments on this proposed rule from tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable laws or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decided not to use available and applicable voluntary consensus standards.

As discussed above, these rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why

such standards should be used in this regulation.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 2, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraphs (e)(3)(ii)(F), (G), and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources (Part I, II and Part III).*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

3. Appendix A to CFR part 55 is amended by revising paragraphs (b)(6), (7), and (8) under the heading ''California'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

(b) * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 102 Definitions (Adopted 01/20/05)
Rule 103 Severability (Adopted 10/23/78)
Rule 106 Notice to Comply for Minor Violations (Repealed 01/01/2001)
Rule 107 Emergencies (Adopted 04/19/01)
Rule 201 Permits Required (Adopted 04/17/97)
Rule 202 Exemptions to Rule 201 (Adopted 03/17/05)
Rule 203 Transfer (Adopted 04/17/97)
Rule 204 Applications (Adopted 04/17/97)
Rule 205 Standards for Granting Permits (Adopted 04/17/97)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 03/17/05)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 6/1/07)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter—Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration—Southern Zone (Adopted 10/23/78)
Rule 306 Dust and Fumes—Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate—Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/02/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 04/17/97)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems—Southern Zone (Adopted 10/23/78)
Rule 321 Solvent Cleaning Operations (Adopted 09/18/97)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 11/15/01)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 07/19/01)
Rule 326 Storage of Reactive Organic Compound Liquids (Adopted 01/18/01)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Metal Parts and Products (Adopted 01/20/00)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 06/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 04/17/97)
Rule 342 Control of Oxides of Nitrogen (NO_X) from Boilers, Steam Generators and Process Heaters (Adopted 04/17/97)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 346 Loading of Organic Liquid Cargo Vessels (Adopted 01/18/01)
Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Adopted 09/16/99)
Rule 353 Adhesives and Sealants (Adopted 08/19/99)
Rule 359 Flares and Thermal Oxidizers (Adopted 06/28/94)
Rule 360 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 10/17/02)
Rule 370 Potential to Emit—Limitations for Part 70 Sources (Adopted 06/15/95)
Rule 505 Breakdown Conditions Sections A., B.1,. and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 06/15/81)
Rule 702 General Conformity (Adopted 10/20/94)
Rule 801 New Source Review (Adopted 04/17/97)
Rule 802 Nonattainment Review (Adopted 04/17/97)
Rule 803 Prevention of Significant Deterioration (Adopted 04/17/97)
Rule 804 Emission Offsets (Adopted 04/17/97)
Rule 805 Air Quality Impact Analysis and Modeling (Adopted 04/17/97)
Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 05/20/99)
Rule 1301 Part 70 Operating Permits—General Information (Adopted 06/19/03)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/09/93)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/09/93)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Part I, II and III):

Rule 102 Definition of Terms (Adopted 12/3/04)
Rule 103 Definition of Geographical Areas (Adopted 01/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 01/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 04/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 08/18/00)
Rule 112 Definition of Minor Violation and Guidelines for Issuance of Notice to Comply (Adopted 11/13/98)
Rule 118 Emergencies (Adopted 12/07/95)
Rule 201 Permit to Construct (Adopted 12/03/04)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 12/03/04)
Rule 202 Temporary Permit to Operate (Adopted 12/03/04)

Rule 203 Permit to Operate (Adopted 12/03/04)
Rule 204 Permit Conditions (Adopted 03/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 01/05/90)
Rule 206 Posting of Permit to Operate (Adopted 01/05/90)
Rule 207 Altering or Falsifying of Permit (Adopted 01/09/76)
Rule 208 Permit and Burn Authorization for Open Burning (Adopted 12/21/01)
Rule 209 Transfer and Voiding of Permits (Adopted 01/05/90)
Rule 210 Applications (Adopted 01/05/90)
Rule 212 Standards for Approving Permits (Adopted 12/07/95) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 01/05/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 01/05/90)
Rule 218 Continuous Emission Monitoring (Adopted 05/14/99)
Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 05/14/99)
Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 05/14/99)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 5/5/06)
Rule 220 Exemption—Net Increase in Emissions (Adopted 08/07/81)
Rule 221 Plans (Adopted 01/04/85)
Rule 301 Permitting and Associated Fees (Adopted 5/7/07) except (e)(7) and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/7/07)
Rule 304.1 Analyses Fees (Adopted 5/7/07)
Rule 305 Fees for Acid Deposition (Rescinded 6/9/06)
Rule 306 Plan Fees (Adopted 5/4/07)
Rule 309 Fees for Regulation XVI (Adopted 5/7/07)
Rule 401 Visible Emissions (Adopted 11/09/01)
Rule 403 Fugitive Dust (Adopted 06/03/05)
Rule 404 Particulate Matter—Concentration (Adopted 02/07/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 02/07/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 04/02/82)
Rule 408 Circumvention (Adopted 05/07/76)
Rule 409 Combustion Contaminants (Adopted 08/07/81)
Rule 429 Start-Up and Shutdown Exemption Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (b) only (Adopted 07/12/96)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 06/12/98)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 09/15/00)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 05/7/76)
Rule 441 Research Operations (Adopted 05/7/76)
Rule 442 Usage of Solvents (Adopted 12/15/00)
Rule 444 Open Burning (Adopted 12/21/01)
Rule 463 Organic Liquid Storage (Adopted 05/06/05)
Rule 465 Refinery Vacuum-Producing Devices or Systems (Adopted 08/13/99)
Rule 468 Sulfur Recovery Units (Adopted 10/08/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 05/07/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/04/81)
Rule 475 Electric Power Generating Equipment (Adopted 08/07/78)
Rule 476 Steam Generating Equipment (Adopted 10/08/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/07/77) Addendum to Regulation IV (Effective 1977)
Rule 518 Variance Procedures for Title V Facilities (Adopted 08/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 08/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 12/21/01)
Rule 701 Air Pollution Emergency Contingency Actions (Adopted 06/13/97)
Rule 702 Definitions (Adopted 07/11/80)
Rule 708 Plans (Rescinded 09/08/95)
Regulation IX Standard of Performance For New Stationary Sources (Adopted 4/6/07)
Reg. X National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 12/2/05)
Rule 1105.1 Reduction of PM_{10} And Ammonia Emissions From Fluid Catalytic Cracking Units (Adopted 11/07/03)
Rule 1106 Marine Coating Operations (Adopted 01/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 1/6/06)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 08/05/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Repealed 11/14/97)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Rescinded 06/03/05)
Rule 1110.2 Emissions from Gaseous and Liquid Fueled Engines (Adopted 06/03/05)
Rule 1113 Architectural Coatings (Adopted 06/09/06)
Rule 1116.1 Lightering Vessel Operations—Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 09/03/04)
Rule 1122 Solvent Degreasers (Adopted 10/01/04)
Rule 1123 Refinery Process Turnarounds (Adopted 12/07/90)
Rule 1125 Metal Container, Closure, and Coil Coating Operations (Adopted 01/13/95)
Rule 1129 Aerosol Coatings (Adopted 03/08/96)
Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilities (Adopted 05/05/06)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 08/08/97)
Rule 1136 Wood Products Coatings (Adopted 06/14/96)
Rule 1137 PM10 Emission Reductions from Woodworking Operations (Adopted 02/01/02)
Rule 1140 Abrasive Blasting (Adopted 08/02/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 07/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 11/17/00)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 05/13/94)
Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 05/05/06)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/05/82)
Rule 1149 Storage Tank Cleaning And Degassing (Adopted 07/14/95)
Rule 1162 Polyester Resin Operations (Adopted 07/08/05)
Rule 1168 Adhesive and Sealant Applications (Adopted 01/07/05)
Rule 1171 Solvent Cleaning Operations (Adopted 07/14/06)
Rule 1173 Control of Volatile Organic Compounds Leaks and Releases From Components At Petroleum Facilities and Chemical Plants (Adopted 06/01/07)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 09/13/96)
Rule 1178 Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities (Adopted 04/07/06)
Rule 1301 General (Adopted 12/07/95)
Rule 1302 Definitions (Adopted 12/06/02)
Rule 1303 Requirements (Adopted 12/06/02)
Rule 1304 Exemptions (Adopted 06/14/96)
Rule 1306 Emission Calculations (Adopted 12/06/02)
Rule 1313 Permits to Operate (Adopted 12/07/95)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 11/06/06)
Rule 1470 Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines (Adopted 06/01/07)
Rule 1605 Credits for the Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 1610 Old-Vehicle Scrapping (Adopted 02/12/99)
Rule 1612 Credits for Clean On-Road Vehicles (Adopted 07/10/98)
Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 03/16/01)
Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 07/10/98)
Rule 1701 General (Adopted 08/13/99)
Rule 1702 Definitions (Adopted 08/13/99)
Rule 1703 PSD Analysis (Adopted 10/07/88)
Rule 1704 Exemptions (Adopted 08/13/99)
Rule 1706 Emission Calculations (Adopted 08/13/99)
Rule 1713 Source Obligation (Adopted 10/07/88)
Regulation XVII Appendix (effective 1977)

Rule 1901 General Conformity (Adopted 09/09/94)
Regulation XX Regional Clean Air Incentives Market (Reclaim)
Rule 2000 General (Adopted 05/06/05)
Rule 2001 Applicability (Adopted 05/06/05)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SOx) (Adopted 01/07/05)
Rule 2004 Requirements (Adopted 04/06/07) except (l)
Rule 2005 New Source Review for RECLAIM (Adopted 05/06/05) except (i)
Rule 2006 Permits (Adopted 05/11/01)
Rule 2007 Trading Requirements (Adopted 04/06/07)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2009 Compliance Plan for Power Producing Facilities (Adopted 01/07/05)
Rule 2010 Administrative Remedies and Sanctions (Adopted 04/06/07)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SOx) Emissions (Adopted 05/06/05)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 05/06/05)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 05/06/05)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 05/06/05)
Rule 2015 Backstop Provisions (Adopted 06/04/04) except (b)(1)(G) and (b)(3)(B)
Rule 2020 RECLAIM Reserve (Adopted 05/11/01)
Rule 2100 Registration of Portable Equipment (Adopted 07/11/97)
Rule 2506 Area Source Credits for NO_X and SOx (Adopted 12/10/99)
XXX Title V Permits
Rule 3000 General (Adopted 11/14/97)
Rule 3001 Applicability (Adopted 11/14/97)
Rule 3002 Requirements (Adopted 11/14/97)
Rule 3003 Applications (Adopted 03/16/01)
Rule 3004 Permit Types and Content (Adopted 12/12/97)
Rule 3005 Permit Revisions (Adopted 03/16/01)
Rule 3006 Public Participation (Adopted 11/14/97)
Rule 3007 Effect of Permit (Adopted 10/08/93)
Rule 3008 Potential To Emit Limitations (Adopted 03/16/01)
XXXI Acid Rain Permit Program (Adopted 02/10/95)

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 2 Definitions (Adopted 04/13/04)
Rule 5 Effective Date (Adopted 04/13/04)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 06/14/77)
Rule 10 Permits Required (Adopted 04/13/04)
Rule 11 Definition for Regulation II (Adopted 03/14/06)
Rule 12 Applications for Permits (Adopted 06/13/95)
Rule 13 Action on Applications for an Authority to Construct (Adopted 06/13/95)
Rule 14 Action on Applications for a Permit to Operate (Adopted 06/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 06/13/95)
Rule 19 Posting of Permits (Adopted 05/23/72)
Rule 20 Transfer of Permit (Adopted 05/23/72)
Rule 23 Exemptions from Permits (Adopted 09/12/06)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 09/15/92)
Rule 26 New Source Review—General (Adopted 03/14/06)
Rule 26.1 New Source Review—Definitions (Adopted 11/14/06)
Rule 26.2 New Source Review—Requirements (Adopted 05/14/02)
Rule 26.3 New Source Review—Exemptions (Adopted 03/14/06)
Rule 26.6 New Source Review—Calculations (Adopted 03/14/06)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 01/13/98)
Rule 26.11 New Source Review—ERC Evaluation At Time of Use (Adopted 05/14/02)
Rule 26.12 Federal Major Modifications (Adopted 06/27/06)
Rule 28 Revocation of Permits (Adopted 07/18/72)
Rule 29 Conditions on Permits (Adopted 03/14/06)
Rule 30 Permit Renewal (Adopted 04/13/04)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 02/20/79)
Rule 33 Part 70 Permits—General (Adopted 09/12/06)
Rule 33.1 Part 70 Permits—Definitions (Adopted 09/12/06)
Rule 33.2 Part 70 Permits—Application Contents (Adopted 04/10/01)
Rule 33.3 Part 70 Permits—Permit Content (Adopted 09/12/06)
Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 04/10/01)
Rule 33.5 Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Adopted 04/10/01)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 04/10/01)
Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 03/14/95)
Rule 35 Elective Emission Limits (Adopted 11/12/96)
Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/06/98)
Rule 42 Permit Fees (Adopted 04/10/07)
Rule 44 Exemption Evaluation Fee (Adopted 09/10/96)
Rule 45 Plan Fees (Adopted 06/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 08/04/92)
Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 06/22/99)
Rule 50 Opacity (Adopted 04/13/04)
Rule 52 Particulate Matter-Concentration (Grain Loading) (Adopted 04/13/04)
Rule 53 Particulate Matter-Process Weight (Adopted 04/13/04)
Rule 54 Sulfur Compounds (Adopted 06/14/94)
Rule 56 Open Burning (Adopted 11/11/03)
Rule 57 Incinerators (Adopted 01/11/05)
Rule 57.1 Particulate Matter Emissions from Fuel Burning Equipment (Adopted 01/11/05)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 09/01/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 04/13/99)
Rule 67 Vacuum Producing Devices (Adopted 07/05/83)
Rule 68 Carbon Monoxide (Adopted 04/13/04)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 06/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 09/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 06/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 06/08/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 09/13/05)
Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 09/13/05)
Rule 74 Specific Source Standards (Adopted 07/06/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 11/13/01)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 11/11/03—effective 07/01/04)
Rule 74.6.1 Batch Loaded Vapor Degreasers (Adopted 11/11/03—effective 07/01/04)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)
Rule 74.8 Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 07/05/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 11/08/05)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 03/10/98)
Rule 74.11 Natural Gas-Fired Residential Water Heaters—Control of NO_X (Adopted 04/09/85)
Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 09/14/99)

Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 11/11/03)
Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/08/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 06/13/00)
Rule 74.16 Oil Field Drilling Operations (Adopted 01/08/91)
Rule 74.20 Adhesives and Sealants (Adopted 01/11/05)
Rule 74.23 Stationary Gas Turbines (Adopted 1/08/02)
Rule 74.24 Marine Coating Operations (Adopted 11/11/03)
Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 01/08/02)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/08/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/08/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 05/10/94)
Rule 74.30 Wood Products Coatings (Adopted 06/27/06)
Rule 75 Circumvention (Adopted 11/27/78)
Rule 101 Sampling and Testing Facilities (Adopted 05/23/72)
Rule 102 Source Tests (Adopted 04/13/04)
Rule 103 Continuous Monitoring Systems (Adopted 02/09/99)
Rule 154 Stage 1 Episode Actions (Adopted 09/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 09/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 09/17/91)
Rule 158 Source Abatement Plans (Adopted 09/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 09/17/91)
Rule 220 General Conformity (Adopted 05/09/95)
Rule 230 Notice to Comply (Adopted 11/09/99)

* * * * *

[FR Doc. E7–22457 Filed 11–15–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[EPA–HQ–OAR–2007–0294; FRL–8495–4]

Petition Requesting Rulemaking To Limit Lead Emissions from General Aviation Aircraft; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of petition for rulemaking.

SUMMARY: Friends of the Earth has filed a petition with EPA, requesting that EPA find pursuant to section 231 of the Clean Air Act that lead emissions from general aviation aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare and that EPA propose emissions standards for lead from general aviation aircraft. Alternatively, Friends of the Earth requests that EPA commence a study and investigation of the health and environmental impacts of lead emissions from general aviation aircraft, if EPA believes that insufficient information exists to make such a finding. The petition submitted by Friends of the Earth explains their view that lead emissions from general aviation aircraft endanger the public health and welfare, creating a duty for the EPA to propose emission standards. EPA invites information and comments from all interested parties on the issues raised by this petition.

DATES: Comments must be received on or before March 17, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0294, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- Email: *a-and-r-docket@epa.gov*, Attention Docket ID No. OAR–2007–0294.
- Fax: (202) 566–9744
- Mail. Send your comments to: Air and Radiation Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Docket ID No. OAR–2007–0294.
- Hand Delivery. Deliver your comments to: Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention: Docket ID No. OAR–2007–0294. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0294. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.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 *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, Docket ID No. OAR–2007–0294. This docket is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Bryan Manning, Assessment and Standards Division, Office of Transportation and Air Quality, 2000 Traverwood Drive, Ann Arbor, MI 48105; *telephone number:* 734–214–4832; *fax number:* 734–214–4816; *e-mail address: manning.bryan@epa.gov,* Assessment and Standards Division Hotline; telephone number: (734) 214–4636; e-mail address: *asdinfo@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly

mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

- Identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.
- Explain your views as clearly as possible.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

II. The Friends of the Earth Petition

This notice is seeking comment on and information related to a petition for an EPA finding and rulemaking and collateral relief from the Friends of the Earth. This petition is seeking the regulation of lead emissions from piston-powered general aviation aircraft under section 231 of the Clean Air Act. The complete petition of Friends of the Earth is available from their Web site, the docket, from the EPA Web site at: *www.epa.gov/otaq/aviation.htm,* or from the individual listed under **FOR FURTHER INFORMATION CONTACT** above.

Friends of the Earth is an environmental advocacy organization headquartered in Washington, DC. The petition they submitted concerns the use of leaded aviation gasoline in piston-powered general aviation aircraft in the U.S. Friends of the Earth believes that ''EPA action regarding lead in general aviation aircraft is long overdue. Studies increasingly show that lead in any quantity threatens the public welfare. Lead emissions from general aviation aircraft constitute a substantial proportion of all current lead air emissions. As a result of the use of leaded aviation gasoline, humans and ecological receptors at or near general aviation airports may be exposed to elevated levels of lead.''

Friends of the Earth contends that ''safe unleaded alternatives to aviation gasoline do exist. Since 1999, the research and development process has produced unleaded fuels that have received approval from the FAA for current use. Tens of thousands of low-performance aircraft have received supplemental type certificates allowing them to run on unleaded automobile gasoline (commonly referred to as mogas in the aviation community). Additionally, a mogas alternative, 82UL, has been developed for use by some low-performance planes. The combination of these two fuels can be utilized by nearly seventy percent of all piston-driven aircraft. Additionally, the FAA allows a select number of planes to run on an ethanol based aviation fuel (AGE85); the remaining thirty percent of general aviation planes can potentially use this unleaded gasoline.''

The Friends of the Earth petition was addressed to EPA. Both EPA and the FAA have specific statutorily defined roles regarding aviation. EPA through section 231 of the Clean Air Act can make findings regarding air pollution emissions from aircraft and set standards regulating such emissions and FAA has the statutory authority to regulate the fuel used in aircraft (49 U.S.C. 44714). By this Notice, EPA is soliciting comment on the petition, specifically on the points discussed in the section ''Request for Comments'' presented below. EPA will use this information in its statutory assessment of whether lead emissions from piston-powered general aviation cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

III. Background Regarding Lead in Aviation Fuel

In a variety of chemical forms and exposure pathways, lead has long been recognized as causing serious adverse health effects. In 1978 EPA established a National Ambient Air Quality Standard for lead of 1.5 micrograms per cubic meter, as a maximum quarterly average. Research completed since that time, discussed in EPA's *Air Quality Criteria Document for Lead* (2006) indicates that health effects of lead occur at blood lead levels lower than those previously reported and include concerns not previously studied (available at *www.epa.gov/ncea*). The adverse effects of lead include neurotoxic effects (e.g., IQ loss in children), effects on the immune system, red blood cell production, cardiovascular system, kidney, bones, teeth and reproductive and developmental systems. EPA is currently conducting a review of the NAAQS which has included the assessment of health and welfare effects of lead documented in the *Air Quality Criteria Document for Lead* (2006). Integral to the NAAQS review are decisions regarding the adequacy of the current standard for lead and whether the Agency should retain or revise it. Consistent with the court order regarding this review, the review and regulatory development process will be completed by September 1, 2008. Additional information about the review is available at: *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html.*

Thirty-five years ago, cars and trucks were the major contributors of lead emissions to the air. In the 1970s, EPA set national regulations to gradually reduce the lead content in gasoline. In 1974, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. EPA banned the use of leaded gasoline in highway vehicles after December 1995. As a result of EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector have dramatically declined (96 percent between 1980 and 2005). The large reductions in lead emissions from motor vehicles have changed the nature of the air quality lead problem in the United States. Industrial processes, particularly primary and secondary lead smelters, utility boilers, and battery manufacturers taken together, are now responsible for most lead emissions into the atmosphere.

Currently, tetraethyl lead (TEL) is added to gasoline used in most piston-engine powered aircraft. The 2002 National Emissions Inventory (NEI) estimates that lead emissions from the use of leaded aviation gasoline (commonly referred to as avgas) are 491 tons; this accounts for 29 percent of the air pollution emissions inventory for lead, and is overall, the largest source category. This estimate is based on the Department of Energy estimate of about 281 million gallons of avgas supplied in the U.S. in 2002 (data available at *http://www.tonto.eia.doe.gov/dnav/pet/hist/mgaupus1A.htm*). In 2006 the volume of avgas supplied in the U.S. was about 280 million gallons. The majority of avgas contains up to 0.56 grams of lead per liter (2.12 grams of lead/gallon). This is referred to as 100 Low Lead (100LL). There is another grade of 100

octane avgas that contains 1.12 grams of lead per liter, but this product is not widely available.

According to the Federal Aviation Administration (FAA) General Aviation and Air Taxi Activity and Avionics (GAATAA) survey (2005), there were over 190,000 piston-engine powered aircraft engaged in flight operations in the U.S. in 2005; these aircraft comprised approximately 90 percent of the aircraft in the general aviation fleet. In 2005, approximately 29 million landing and take-off events (58 million total operations) were conducted by piston-engine powered aircraft. Among the total hours flown by general aviation aircraft, about 68 percent occurred in a piston-engine powered aircraft. According to the General Aviation Manufacturers Association (GAMA), there were approximately 2,750 new piston-engine powered aircraft manufactured in 2006. This is the largest production volume over the past ten years and reflects an average annual increase in sales that ranged from eight to 43 percent during the preceding 10-year period except for 2001 and 2002. GAMA estimates that the average piston-engine powered aircraft is 35–40 years old.

Avgas and automotive unleaded gasoline are both derived and blended from the refining of petroleum. However, due to the different nature of engine designs and operating environments these two types of gasoline are different in their chemical composition. Avgas is refined and blended to meet ASTM specification D910 while automotive unleaded gasoline (commonly referred to as mogas) meets ASTM specification D4814. Generally, avgas is transported independent of other fuel to avoid cross-contamination and to maintain the tight specifications of avgas required for proper engine operation in general aviation applications. TEL is added to avgas to increase octane, prevent knock,[1] and prevent valve seat recession and subsequent loss of compression for engines without hardened valves. Lead and other additives are added downstream of the refinery; most avgas is distributed by truck directly from the refinery to the bulk gasoline terminals or bulk plants or to the storage tanks and refueling equipment at airports.

Most piston engines used in general aviation are type certified by FAA for the use of leaded avgas (mostly 100LL). The FAA has issued supplemental type certificates (STCs) qualifying piston engines used in general aviation to use unleaded avgas. There are two types of unleaded gasoline reflected in these STCs. The first type of unleaded gasoline which can be used under STCs is ethanol-free unleaded automotive gasoline (mogas). Most aircraft using this mogas have low-compression engines which were originally certified to run on leaded 80/87 avgas and require only 87 antiknock index gasoline. The second type is known as 82UL avgas, which is unleaded fuel similar to automobile gasoline but without additives. It may be used in aircraft that have an STC for the use of automobile gasoline with an aviation lean octane rating of 82 or less or an antiknock index of 87 or less. ASTM specification D6227 has been established for 82UL but this fuel has not yet been produced for general distribution.[2] About 97 percent of gasoline used in piston-engine powered aircraft is leaded avgas, mostly 100LL. The remaining three percent is ethanol-free unleaded automotive gasoline (mogas).

The Experimental Aircraft Association and Petersen Aviation estimate that ethanol-free unleaded gasoline can be used in approximately 40 percent of the piston-engine powered aircraft fleet (e.g., those aircraft with low-compression engines).[3] In contrast, in order to prevent knock or detonation during the combustion process, high-compression piston engines require higher octane than typical unleaded gasoline provides. These aircraft also typically have higher utilization rates and fuel consumption rates than their low-compression counterparts. The AOPA estimates that high-compression piston-engine powered aircraft currently consume approximately 70 percent of the leaded avgas supplied nationally, and that the remaining 30 percent of the leaded avgas is used in aircraft that could also use ethanol-free unleaded automotive gasoline.

Efforts to explore reduced lead emissions from piston-engine powered aircraft have primarily focused on fuels to replace 100LL avgas, with less attention given to potential engine modifications. The FAA conducts research exploring replacement fuels for use in piston-engine powered aircraft at its William J. Hughes Technical Center. Publications from this research can be found at *http://www.actlibrary.tc.faa.gov/* by searching for 'unleaded avgas'. The Coordinating Research Council has organized the Unleaded Aviation Gasoline Development Group which brings together FAA, AOPA, GAMA, the Experimental Aircraft Association, airframe manufacturers, engine manufacturers, fuel producers and other interested parties. The objective of the group is to facilitate development of a high-octane unleaded aviation gasoline as an environmentally compatible, cost-effective replacement for the current 100LL avgas. Documents regarding the CRC Unleaded Aviation Gasoline Development Group can be found in the docket for this notice.

At the 23rd World Assembly of the International AOPA, Lennart Persson of Hjelmco Oil in Sweden suggested that a 91/96 octane unleaded avgas could be a transparent switchover for 70 percent of the U.S. general aviation fleet. He indicated that this fuel would provide similar performance to 100LL avgas and has done so successfully in Sweden for 15 years. It is now offered for sale at 70 locations in Sweden. For more information see *http://www.iaopa.org/info/assembly23/ppts/persson.pdf*

IV. Request for Comments

EPA is soliciting public comment on any and all aspects of the petition from Friends of the Earth regarding issues related to the use of lead in general aviation gasoline. To assist us in developing our response to the petition EPA specifically requests information and comment on the following.

1. EPA requests information related to human and environmental lead exposures and effects around airports. Specifically, we request information on concentrations of lead in the air, soil, surface water or other environmental media at or near airports where leaded avgas is used. Information regarding sources of lead in addition to leaded avgas in these areas is also requested.

2. We request information on levels of lead in indoor dust in homes in the vicinity of airports where leaded avgas is used and information regarding the presence of leaded paint in those homes.

3. We request information on blood lead levels in children and adults residing or attending school in the vicinity of an airport where leaded avgas is used.

[1] Knocking is the sound produced when some of the unburned fuel in the cylinder ignites spontaneously resulting in rapid burning and a precipitous rise in cylinder pressure that creates the characteristic knocking or pinging sound (Chevron 2005 available at: *http://www.chevronglobalaviation.com/docs/aviation_tech_review.pdf*).

[2] 82UL has not yet been produced for general distribution due to limited demand. It would be a fraction of the 100LL market. It is an aviation grade product, and thus, refiners can not simply alter mogas to make 82UL.

[3] The Experimental Aircraft Association and Petersen Aviation data are available at *www.aviationfuel.org* and *www.autofuelstc.com/autofuelstc/pa/PetersenAviation.html.*

4. We request information on the characteristics of the populations residing in the vicinity of an airport where leaded avgas is used, specifically, information regarding the number of children six years and younger, the number of schools, daycare facilities, retirement homes, and the socioeconomic status of the population.

5. EPA request information on the volume of leaded avgas and unleaded aviation gasoline (mogas) supplied at individual airports nationwide.

6. EPA requests comment on locations where unleaded aviation gasoline is available and the reason for its apparent lack of widespread availability. We request the submission of information related to supplying unleaded aviation gasoline at airports and how potential fuel distribution issues could be addressed.

7. EPA requests information on the characteristics of piston engine general aviation operation, including annual LTOs by airport, LTO characteristics per airport and aircraft/engine type including mode, time-in-mode, and fuel flow rate in mode. Related to this, EPA requests information on the frequency and duration of local area flights (including touch/go operations) and flight durations within the mixing layer.

8. EPA requests information on the disposal of leaded avgas after a pilot checks the fuel before starting the aircraft. Specifically, we request information on how this fuel is discarded (i.e., is it deposited on the tarmac) or otherwise handled?

9. Leaded avgas contains ethylene dibromide which acts as a scavenger for lead by converting lead oxide to lead bromide compounds which are volatile and easily exhausted from the engine. This prevents lead oxide depositing on the valves and spark plugs where it could damage the engine. EPA requests information on the variation in lead emission rates at various operating modes and power settings and the quantity of lead retained in the engine and engine oil as a fraction of the lead in the fuel combusted.

10. EPA is requesting comments on the potential use of replacement fuels for use in piston-engine powered aircraft. Approximately 40 percent of the piston-engine powered aircraft fleet is certified with an STC allowing the use of ethanol-free unleaded gasoline (82UL or ''mogas''), but these fuels are not widely available at airports. Information available to EPA suggests that 30 percent of the 100LL avgas consumed could be replaced by unleaded gasoline. These aircraft are equipped with low-compression engines that may also run on leaded aviation fuel when mogas or 82UL is not available.

11. We request analysis of the prospects for developing an unleaded fuel for the general aviation fleet that will meet the needs of high-compression engines, including additional research needed.

12. EPA is requesting comment on the viability of a high-octane unleaded aviation gasoline in a high-compression engine to provide equivalent performance and safety to 100LL avgas.

13. In this context, EPA requests comment on the viability of the use of ethyl tertiary-butyl ether (ETBE) or other octane enhancing compounds for unleaded fuel.

14. We also request information on what modifications would need to be made to the existing fleet of high-compression engines as well as new engines, with appropriate lead time, for them to operate on high-octane unleaded fuel with an equivalent margin of safety. In particular, we solicit comment on electronic ignition systems (full authority digital engine control) and knock (detonation) sensors, including comments on further research on these technologies. One example for consideration is the Teledyne Continental Motors/Aerosance Powerlink FADEC system.

15. EPA also requests information on the ability of current engines to operate on avgas with a decreased lead content relative to 100LL, and identification of the minimum lead content needed to maintain safe engine operation.

16. EPA requests comment on the storage of avgas, specifically, issues related to above ground storage capacity compared to below-ground storage capacity.

17. EPA requests comment on the availability of additives less toxic than lead to enhance aviation gasoline octane.

18. We request comment on the long-term availability of TEL as an avgas additive.

19. We request information related to the feasibility and costs of any potential options for limiting lead emissions from existing aircraft.

20. We request comment on the STCs which have been approved to allow for the use of unleaded gasoline in general aviation, the percent and characteristics of the current fleet covered by STCs, and obstacles to wider acceptance and application of the STCs.

21. EPA is requesting comment on additional research on alcohol-based fuels of which we should be aware. The FAA has approved a very limited number of STCs for use of ethanol-based AGE–85 fuel (85% ethanol in 15% unleaded gasoline) under a preliminary fuel specification. Subsequent approvals allowing more widespread use of AGE–85 are pending the development of a final, aviation-grade fuel specification to ensure potential safety concerns with the fuel are fully vetted by the FAA and the aviation industry.

22. EPA is requesting comment on additional research or information regarding the use of diesel engines in general aviation, particularly regarding equipment changes and the related costs. The FAA has approved Type Certificates and STCs for diesel-cycle engines that use widely-available, unleaded jet fuel.

Before the end of the comment period, please send all comments and related information to the address indicated in the **ADDRESSES** section at the beginning of this notice.

Dated: November 9, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. E7–22456 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 72, No. 221
Friday, November 16, 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

Office of the Chief Economist; Federal Advisory Committee for the Expert Review of Synthesis and Assessment Product 4.3

AGENCY: Office of the Chief Economist, U.S. Department of Agriculture.

ACTION: Notice of Teleconference.

SUMMARY: The Federal Advisory Committee for the Expert Review of Synthesis and Assessment Product 4.3 (CERSAP) will hold a teleconference on Friday, December 7, 2007. The U.S. Department of Agriculture (USDA) is the lead agency for Climate Change Science Program Synthesis and Assessment Product 4.3 (SAP 4.3) titled, *The Effects of Climate Change on Agriculture, Land Resources, Water Resources, and Biodiversity*. CERSAP will provide advice to the Secretary of Agriculture on the conduct of this study.

DATES: CERSAP will convene at 11 a.m. Eastern time on Friday, December 7. The teleconference is expected to last no more than 90 minutes. To receive call-in and password information, please contact Dr. Margaret Walsh at 202–720–9978 or *mwalsh@oce.usda.gov* no later than 5 p.m. Eastern time on Friday, November 30, 2007. Individuals who wish to attend in person must inform Dr. Walsh no later than 5 p.m. Eastern time on Friday, November 30, 2007. A conference room at the U.S. Department of Agriculture, 1400 Independence Avenue, Washington, DC 20250 will be made available for those who wish to attend in person. Upon entry, please have Security call 202–720–8651 for mandatory escort to the teleconference location.

ADDRESSES: The teleconference will be held by telephone, and those interested in participating can do so by obtaining call-in information or using the conference room provided at USDA. Please contact Dr. Margaret Walsh at 202–720–9978 or *mwalsh@oce.usda.gov* for call-in information and password. Written materials for CERSAP's consideration prior to the meeting must be received by Dr. Margaret Walsh no later than Friday, November 30, 2007. Written materials may be sent to Dr. Margaret Walsh at *mwalsh@oce.usda.gov*. Individuals who wish to attend in person must inform Dr. Walsh no later than 5 p.m. Eastern time on Friday, November 30, 2007. A conference room at the U.S. Department of Agriculture, 1400 Independence Avenue, Washington, DC 20250 will be made available for those who wish to attend in person. Upon entry, please have Security call 202–720–8651 for mandatory escort to the teleconference location.

FOR FURTHER INFORMATION CONTACT: Dr. Margaret Walsh, Global Change Program Office, U.S. Department of Agriculture, 202–720–9978 or *mwalsh@oce.usda.gov*.

SUPPLEMENTARY INFORMATION: This is a public meeting. In order to ensure a sufficient number of call-in lines, individuals who would like to participate in this teleconference must RSVP to Dr. Margaret Walsh before Friday, November 30, 2007 for access information. Written materials for CERSAP's consideration prior to the meeting must be received by Dr. Margaret Walsh no later than Friday, November 30, 2007. Individuals may make oral presentations. Those making oral presentations must inform Dr. Walsh when receiving the teleconference information that they plan to do so.

More information on CERSAP and on SAP 4.3 may be found online at *http://www.usda.gov/oce/global_change/index.htm, http://www.climatescience.gov/Library/sap/sap4-3/default.php*, and *http://www.sap43.ucar.edu/*.

Draft Meeting Agenda

Friday, December 7, 2007

A. Welcome and Introductions.
B. Update on SAP 4.3.
C. Discussion of Process and Schedule.
D. Public Comment (if applicable).

Time will be reserved for public comment. Individual presentations will be limited to five minutes. Updates to the meeting agenda can be found online at the URLs listed above.

For information on facilities or services for individuals with disabilities, or to request special assistance, please contact Dr. Margaret Walsh. USDA prohibits discrimination on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statues enforced by USDA (not all prohibited bases apply to all programs). Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA's Target Center at (202) 720–2000 (voice and TDD). USDA is an equal opportunity provider and employer.

Keith Collins,
Chief Economist.
[FR Doc. 07–5689 Filed 11–15–07; 8:45 am]
BILLING CODE 3410–19–M

DEPARTMENT OF AGRICULTURE

Forest Service

White River National Forest; Eagle County, CO; 2007 Vail Ski Area Improvements Proposal

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the anticipated environmental effects of the 2007 Vail Ski Area Improvements proposal. The proposal includes projects designed to enhance the guest experience at Vail through a series of strategic, qualitative improvements and is tailored to improve Vail's ability to respond to its changing market/guests' demands and preferences.

DATES: Comments concerning the scope of the analysis must be received by December 17th. The draft environmental impact statement is expected in May 2008 and the final environmental impact statement is expected in July 2008.

ADDRESSES: Send written comments Maribeth Gustafson, Forest Supervisor, c/o Roger Poirier, Winter Sports Program Manager, White River National

Forest, 900 Grand Avenue, Glenwood Springs, CO 81602–0948.

For further information, mail correspondence to: Don Dressler—Snow Ranger, Holy Cross Ranger District 24747 U.S. Highway 24, P.O. Box 190, Minturn, CO 81645.

FOR FURTHER INFORMATION CONTACT: Don Dressler—Snow Ranger, Holy Cross Ranger District 24747 U.S. Highway 24, P.O. Box 190, Minturn, CO 81645, *drdressler@fs.fed.us* or (970) 827–5157.

SUPPLEMENTARY INFORMATION: The Proposed Action addresses issues related to the quality of the recreational experience. Presently, alpine skiing/snowboarding and other resort activities are provided to the public through a Special Use Permit (SUP) issued by the White River National Forest. All elements of the proposal remain within the existing SUP boundary area. The proposed improvements are consistent with the 2002 Revised White River National Forest Land and Resource Management Plan (Forest Plan).

Purpose and Need for Action

The overall purpose and need for the Proposed Action is to enhance the guest experience through a series of strategic, qualitative improvements that will enable Vail to better respond to its changing market/guests' demands, expectations, and preferences—both in the near and long-term. The following basic needs are addressed by the Proposed Action:

(1) Expedite mountain circulation and afternoon egress between Vail Mountain and the Vail Village / Lionshead base areas.

(2) Improve skier/rider access to Sundown Bowl.

(3) Improve Vail's lift and vehicular maintenance facilities.

(4) Improve early-season and low snow year skiing/riding on the front side of Vail Mountain.

(5) Provide additional on-mountain dining opportunities.

(6) Improve access to West Earl's Bowl for both skiers/riders and mountain operations.

(7) Segregate ski and snowboard racing/training from the general public.

Proposed Action

All proposed projects are within Vail's existing SUP boundary. The major aspects of the Proposed Action include:

- Upgrade Chair #5 (High Noon) to a high-speed, detachable chairlift;
- Install a high-speed, detachable chairlift in Sun Down Bowl;
- Construct a new on-mountain restaurant at the confluence of Chairs #4, #5, and #11;
- Expand the existing Golden Peak race venue to accommodate additional racing and training;
- Create a permanent, groomable route to the western extent of Earl's Bowl which will expedite skier/rider access as well as enhance Ski Patrol's ability to respond to their needs;
- Convert the existing Snow Summit SnowCat Garage into a lift maintenance facility, and construct a new, larger snowcat garage adjacent to it;
- Install additional snowmaking infrastructure on three existing trails—Simba, Upper Born Free, and Ledges—totalling approximately 95 acres of coverage;
- Infrastructural improvements associated with theses projects are also proposed, including power line installation to the bottom of Chair #5 and the proposed Sun Down Chairlift, improvements to the existing Chair #5 access road, regrading terminal locations, and installation of retaining walls and culverts.

Responsible Official

The responsible official is Maribeth Gustafson, Forest Supervisor for the White River National Forest, 900 Grand Ave., P.O. Box 948, Glenwood Springs, Colorado 81602. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR part 215 or part 251.

Nature of Decision To Be Made

Based on the analysis that will be documented in the forthcoming EIS, the responsible official will decide whether or not to implement, in whole or in part, the Proposed Action or another alternative developed by the Forest Service.

Scoping Process

Public questions and comments regarding this proposal are an integral part of this environmental analysis process. Comments will be used to identify issues and develop alternatives to Vail's proposal. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible.

Input provided by interested and/or affected individuals, organizations and governmental agencies will be used to identify resource issues that will be analyzed in the Draft EIS. The Forest Service will identify significant issues raised during the scoping process, and use them to formulate alternatives, prescribe mitigation measures and project design features, or analyze environmental effects.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the

public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: November 9, 2007.

Maribeth Gustafson,

White River National Forest Supervisor.

[FR Doc. E7–22429 Filed 11–15–07; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete from the Procurement List products previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: December 16, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, *Telephone:* (703) 603–7740, *Fax:* (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Enamel

NSN: 8010–01–336–5062.
NSN: 8010–01–348–3060.
NPA: Lighthouse for the Blind, St. Louis, MO.
Contracting Activity: General Services Administration, Heartland Global Supply, Kansas City, MO.

Pen, Cushion Grip, Transparent (Alpha Grip)

NSN: 7520–01–446–4851—Purple Ink, Fine Point.
NSN: 7520–01–446–4852—Purple Ink, Medium Point.

Pen, Gel

NSN: 7520–01–484–5257—Purple, Medium.

Pen, Non-retractable, Gel Ink, ''Alpha Elite''

NSN: 7520–01–500–5216—Purple.
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Center, New York, NY.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–22458 Filed 11–15–07; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product and services previously furnished by such agencies.

EFFECTIVE DATE: December 16, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On September 21, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR 53989) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type/Location: Janitorial/Grounds Maintenance, Customs and Border Protection, New Sector Headquarters, 211 Aten Road, Imperial, CA.
NPA: ARC-Imperial Valley, El Centro, CA.
Contracting Activity: Department of Homeland Security, Customs and Border Protection, Washington, DC.

Deletions

On August 10 and September 21, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR 45008; 53989) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are no longer suitable for procurement by the Federal

Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services deleted from the Procurement List.

End of Certification

Accordingly, the following product and services are deleted from the Procurement List:

Product

Diaper, Infant's
NSN: 6532–01–127–2213—Diaper, Infants.
NPA: Lions Industries for the Blind, Inc., Kinston, NC.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Duplicating Service, (GPO Program C285–S), Federal Bureau of Investigation, Criminal Justice Information Services Complex, Clarksburg, WV.
NPA: Job Squad, Inc., Bridgeport, WV.
Contracting Activity: Government Printing Office, Washington, DC.
Service Type/Location: Mail Support Services, Department of Justice, Drug Enforcement Agency, Newark, NJ.
NPA: The First Occupational Center of New Jersey, Orange, NJ.
Contracting Activity: Drug Enforcement Agency, Washington, DC.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–22459 Filed 11–15–07; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–412–801]

Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Notice of Partial Rescission of Antidumping Duty Administrative Reviews

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

SUMMARY: On June 29, 2007, in response to requests from interested parties, the Department of Commerce published a notice of initiation of administrative reviews of the antidumping duty orders on ball bearings (and parts thereof) from France, Germany, Italy, Japan, and the United Kingdom. The period of review is May 1, 2006, through April 30, 2007. The Department of Commerce is rescinding these reviews in part.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION: Richard Rimlinger, AD/CVD Enforcement, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4477.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 2007, in response to requests from interested parties, the Department of Commerce (Department) published a notice of initiation of administrative reviews of the antidumping duty orders on ball bearings (and parts thereof) from France, Germany, Italy, Japan, and the United Kingdom. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 35690 (June 29, 2007).

Subsequent to the initiation of these reviews, the requests we had received for the reviews of the following company/country combinations were withdrawn:

Requestor: SKF USA Inc.

Countries	Company	Date of Withdrawal
France, Germany, Italy, U.K.	Hauni Maschinenbau AG	August 9, 2007
France, Germany, Italy, U.K.	Hauni London Ltd.	August 9, 2007
France, Germany, Italy, U.K.	Decoufle s.a.r.l.	August 9, 2007
France, Germany, Italy, U.K.	Baltic Metalltechnik GmbH	August 9, 2007
France, Germany, Italy, U.K.	Hauni Primary GmbH	August 9, 2007
France, Germany, Italy, U.K.	Universelle Engineering U.N.I. GmbH	August 9, 2007
France, Germany, Italy, U.K.	Focke & Co./FOPAC Maschinenbau GmbH	July 11, 2007
France, Germany, Italy, U.K.	RBK Machinery Sales	July 11, 2007
France, Germany, Italy, U.K.	Molins PLC	September 4, 2007
France, Germany, Italy, U.K.	ITCM	September 4, 2007
France, Germany, Italy, U.K.	Molins Tobacco Machinery Ltd.	September 4, 2007
France, Germany, Italy, U.K.	Molmac Engineering Ltd.	September 4, 2007
France, Germany, Italy, U.K.	Cerulean Packing Machinery	September 4, 2007
France, Germany, Italy, U.K.	Brasanti Macchine S.p.A.	September 26, 2007
France, Germany, Italy, U.K.	Sidel Group	September 26, 2007
France, Germany, Italy, U.K.	Sidel Blowing and Services S.A.S.	September 26, 2007
France, Germany, Italy, U.K.	Sidel Engineering and Turnkey S.A.S.	September 26, 2007
France, Germany, Italy, U.K.	Sidel Conveying S.A.S.	September 26, 2007
France, Germany, Italy, U.K.	Sidel Filling Food S.A.S.	September 26, 2007
France, Germany, Italy, U.K.	Cermex	September 26, 2007
France, Germany, Italy, U.K.	Sidel GmbH	September 26, 2007
France, Germany, Italy, U.K.	Sidel Italia	September 26, 2007
France, Germany, Italy, U.K.	Sidel UK Ltd.	September 26, 2007

Requestor: Rexnord Corporation

Country	Company	Date of Withdrawal
United Kingdom	Minebea Co., Ltd.	August 21, 2007

Country	Company	Date of Withdrawal
United Kingdom	NMB-minebea UK, Ltd.	August 21, 2007
Germany	NMB-minebea GmbH	August 21, 2007
Germany	Minebea Co. Ltd.	August 21, 2007
Japan	NMB-minebea Co., Ltd.	August 21, 2007
Japan	Minebea Co., Ltd.	August 21, 2007

Self–requestors:

Country	Company	Date of Withdrawal
Japan	Nankai Seiko Co., Ltd	August 3, 2007
Japan	NSK Ltd.	September 27, 2007
Japan	Asahi Seiko Co., Ltd.	September 26, 2007
Japan	Mori Seiki Co., Ltd.	September 28, 2007
United Kingdom	NSK Bearings Europe	September 27, 2007
France	SNR Roulements	June 26, 2007
Germany	Schaeffler KG	June 26, 2007
Italy	Schaeffler Italia S.p.A.	June 26, 2007

Rescission of Reviews

In accordance with 19 CFR 351.213(d) the Department will rescind an administrative review ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' We received all of the above withdrawal letters, except one, within the 90-day time limit. Although Mori Seiki Co., Ltd., withdrew its request 91 days after initiation of the review, we have honored this request because we have not expended significant resources with regard to Mori Seiki Co., Ltd., and no party has objected to Mori Seiki Co., Ltd.,'s late withdrawal of its request. Because the Department received no other requests for review of these firms, the Department is rescinding the reviews in part with respect to ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom by these firms. The above rescissions are pursuant to 19 CFR 351.213(d)(1). The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these rescissions in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 7, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22343 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804, A–412–801]

Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Ball Bearings and Parts Thereof from Japan and the United Kingdom

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

SUMMARY: On October 12, 2007, the Department of Commerce published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom. The period of review is May 1, 2005, through April 30, 2006. Based on the correction of certain ministerial errors, we have changed the margins for Mori Seiki Co., Ltd., and the Barden Corporation/Schaeffler UK for the administrative reviews of ball bearings and parts thereof from Japan and the United Kingdom, respectively.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4477.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 2007, the Department of Commerce (the Department) published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from France, Germany, Italy, Japan, Singapore, and the United Kingdom. *See Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 72 FR 58053 (October 12, 2007) (*Final Results*).

We received a timely allegation of ministerial error pursuant to 19 CFR § 351.224(c) from Mori Seiki Co., Ltd., that, due to an error in our calculations, we did not make comparisons between certain models sold in the United States and similar models sold by Mori Seiki Co., Ltd. in its home market. We also received a timely allegation of ministerial error pursuant to 19 CFR § 351.224(c) from the Timken US Corporation that, due to an error in our

calculations, we did not designate the level of trade correctly for certain U.S. sales made by the Barden Corporation/Schaeffler UK. We agree that these are ministerial errors and are hereby amending the final results to correct these errors in accordance with 19 CFR § 351.224(e).

Amended Final Results of Reviews

As a result of the corrections of the clerical errors, the following weighted–average margins exist for exports of ball bearings by Mori Seiki Co., Ltd. and the Barden Corporation/Schaeffler UK for the period May 1, 2005, through April 30, 2006:

Company - Country	Margin (percent)
Mori Seiki Co., Ltd. – Japan	0.19
The Barden Corporation. Schaeffler UK – United Kingdom	0.72

Assessment Rates

The Department will determine and the U.S. Bureau of Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. We intend to issue appropriate assessment instructions directly to CBP 15 days after publication of these amended final results of reviews. Where the importer-/customer–specific assessment rate or amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or for that customer.

We will also direct CBP to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the Final Results and at the rates as amended by this notice. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date these amended final results are published in the **Federal Register** (except no cash deposit will be required for Mori Seiki Co., Ltd., which has a weighted–average margin of 0.19 percent which is *de minimis, i.e.*, less than 0.5 percent).

We are issuing and publishing these determinations and notice in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR § 351.224(e).

Dated: November 8, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22472 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Canned Pineapple Fruit from Thailand: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2371 or (202) 482–3782, respectively.

Background

On August 8, 2007, the Department published the preliminary results of the administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand for the period July 1, 2005 through June 30, 2006. *See Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 44490 (August 8, 2007). This review covers two producers/exporters of the subject merchandise to the United States, Vita Food Factory (1989) Ltd. (Vita) and Tropical Food Industries Co. Ltd. (Trofco).

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) requires the Department to issue the final results in an administrative review within 120 days of the publication date of the preliminary results. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days. The Department has determined that completion of the final results of this review within the original time period is not practicable due to the additional analysis that must be performed on the information collected at verification conducted since the issuance of the preliminary results. Specifically, the Department requires additional time to analyze selling agent relationships pertaining to respondent. Thus, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the final results of review by an additional 60 days, until February 4, 2008.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: November 7, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22462 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews

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

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1394.

Background

On July 12, 2007, the Department published a notice of initiation of new shipper reviews of fresh garlic from the PRC covering the period November 1, 2006, through April 30, 2007. *See Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews*, 72 FR 38057 (July 12, 2007). The preliminary results of these new shipper reviews are currently due no later than December 26, 2007.

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the ''Act''), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated. *See also* 19 CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180-day period to 300 days if it determines that the case is extraordinarily complicated. See 19 CFR 351.214 (i)(2).

Extension of Time Limit of Preliminary Results

The Department determines that these new shipper reviews involve extraordinarily complicated

methodological issues such as the use of intermediate input methodology, potential affiliation issues, the examination of importer information and the evaluation of the *bona fide* nature of each company's sales. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for these preliminary results by 90 days, until no later than March 25, 2008. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: November 5, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22348 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review and Antidumping Duty New Shipper Review

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

SUMMARY: The Department of Commerce (''the Department'') is further extending the time limit for the preliminary results of the aligned administrative and new shipper reviews of honey from the People's Republic of China (''PRC''). These reviews cover the period December 1, 2005, through November 30, 2006.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Bobby Wong or Michael Quigley, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0409 or (202) 482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Department published in the **Federal Register** an antidumping duty order covering honey from the PRC. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). On February 2, 2007, the Department published a notice of initiation of the administrative review of the antidumping duty order on honey from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 5005 (February 2, 2007). On February 5, 2007, the Department published a notice of initiation of the antidumping new shipper review of honey from the PRC. *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews*, 72 FR 5265 (February 5, 2007). On February 23, 2007, the Department aligned the new shipper review and the administrative review. *See* Letter from Christopher Riker: Antidumping Duty New Shipper Review of Honey from the People's Republic of China (''PRC''): Alignment with Administrative Review, dated February 23, 2007.

On July 31, 2007, the Department published a notice extending the deadline of the preliminary results by 90 days, currently due no later than December 3, 2007. *See Honey From the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review and Antidumping Duty New Shipper Review,* 72 FR 41710 (July 31, 2007).

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested, and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of these administrative and new shipper reviews within the original time limit because the Department requires additional time to conduct verification and evaluate the most appropriate surrogate value data to use during the period of review. Therefore, the Department is extending the time limit for completion of the preliminary results of the aligned administrative and new shipper reviews by an additional 16 days. The preliminary results will now be due no later than December 17, 2007. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: November 7, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22345 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On July 11, 2007, the Department of Commerce published the preliminary results of the 2005/2006 administrative review of the antidumping duty order on polyethylene retail carrier bags from Thailand. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted–average dumping margins for the respondents are listed below in the ''Final Results of the Review'' section of this notice.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3174 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2007, the Department of Commerce (the Department) published *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative*

Review and Intent to Rescind in Part, 72 FR 37718 (July 11, 2007) (*Preliminary Results*), in the **Federal Register**. The administrative review covers 16 producers/exporters.[1] We selected the following respondents for individual examination: Advance Polybag Inc., Alpine Plastics Inc., API Enterprises Inc., and Universal Polybag Co., Ltd. (collectively UPC/API); CP Packaging Industry Co., Ltd. (CP); King Pac Ind. Co., Ltd. (King Pac[2]); Thai Plastic Bags Industries Co., Ltd., APEC Film Ltd., and Winner's Pack Co., Ltd. (collectively TPBG). For the companies under review which we did not select for individual examination, we have calculated a weighted average of the weighted–average margins we have established for the individually reviewed respondents excluding rates based entirely on adverse facts available. The period of review is August 1, 2005, through July 31, 2006.

We invited parties to comment on the *Preliminary Results*. On August 13, 2007, we received case briefs from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation (collectively, the petitioners), CP, and KYD Ltd. (KYD), an importer of subject merchandise. On August 22, 2007, we received rebuttal briefs from the petitioners, CP, and KYD. At the request of KYD, we held a hearing on August 29, 2007.

We have conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs) which may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

As a result of recent changes to the *Harmonized Tariff Schedule of the United States* (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Rescission

In the *Preliminary Results*, we explained that Multibax reported that it had no shipments of subject merchandise subject to this review. Additionally, we stated that, because our review of information from U.S. Customs and Border Protection (CBP) supported Multibax's claim, we would rescind the review with respect to Multibax if we continued to find that Multibax did not have any shipments of subject merchandise to the United States during the period of review. See *Preliminary Results*, 72 FR at 37719. Because we have not received information indicating that Multibax had any shipments of subject merchandise during the POR, we are rescinding the administrative review with respect to Multibax.

Duty Absorption

In the preliminary results of this administrative review, the Department found that UPC/API absorbed antidumping duties on all U.S. sales in accordance with section 751(a)(4) of the Act. See *Preliminary Results*, 72 FR at 37719. UPC/API did not present evidence to rebut the presumption that the unaffiliated customers in the United States will not pay the full duty ultimately assessed on the subject merchandise. Thus, for the final results of this review, we continue to find that UPC/API absorbed antidumping duties.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the November 8, 2007, Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags from Thailand for the period of review August 31, 2005, through July 31, 2006 (Decision Memorandum), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room B–099 of the main Department building (CRU). In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

We recalculated CP's general and administrative expenses to base them on CP's 2006 audited financial statements rather than its 2005 financial statements. We also corrected a clerical error in the margin calculations for UPC/API by deducting foreign movement expenses incurred in baht.

Sales Below Cost in the Home Market

For these final results of review, the Department disregarded home–market sales by CP, UPC/API, and TPBG that failed the cost–of-production test.

Final Results of the Review

As a result of our review, we determine that the following percentage weighted–average dumping margins exist on polyethylene retail carrier bags from Thailand for the period August 31, 2005, through July 31, 2006:

Producer/Exporter	Margin (percent)
UPC/API	0.80
TPBG	0.87
CP	1.87
King Pac	122.88

[1] The 16 exporters/producers are as follows: Advance Polybag Inc., Alpine Plastics Inc., APEC Film Ltd., API Enterprises Inc., Apple Film Co., Ltd., CP Packaging Industry Co., Ltd., King Pac Ind. Co. Ltd., Naraipak Co., Ltd., Polyplast (Thailand) Co., Ltd., Sahachit Watana Plastic Ind. Co., Ltd., Thai Plastic Bags Industries Co., Ltd., Thantawan Industry Public Co., Ltd., U. Yong Ltd., Part., U Yong Industry Co., Ltd., Universal Polybag Co., Ltd., and Winner's Pack Co., Ltd. See *Preliminary Results*, 72 FR at 37718. This does not include Multibax Public Co., Ltd. (Multibax), for which we are rescinding the administrative review.

[2] The record indicates that the company King Pac also has an alternative spelling to its name and thus, the company names King Pac or King Pak are acceptable in referring to this company in this proceeding.

Review–Specific Average Rate Applicable to the Following Companies:[3]

Producer/Exporter	Margin (percent)
Apple Film Co., Ltd.	0.95
Naraipak Co., Ltd.	0.95
Polyplast (Thailand) Co., Ltd.	0.95
Sahachit Watana Plastic Ind. Co., Ltd.	0.95
Thantawan Industry Public Co., Ltd.	0.95
U. Yong Ltd., Part.	0.95
U. Yong Industry Co., Ltd.	0.95

Assessment Rates

Upon issuance of these final results, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. We calculated importer/customer–specific duty assessment rates or per–unit dollar amounts, as appropriate, for each respondent's reported importer or customer.

Where the assessment rate or amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or customer. For the responsive companies we did not select for individual examination, we have calculated an assessment rate based on weighted average of the weighted–average margins we calculated for the companies selected for individual review, excluding any which are determined on adverse facts available entirely. We will instruct CBP to apply that rate (0.95 percent) to all entries of subject merchandise during the POR that were produced and/or exported by Apple Film Co., Ltd., Naraipak Co., Ltd., Polyplast (Thailand) Co., Ltd., Sahachit Watana Plastic Ind. Co., Ltd., Thantawan Industry Public Co., Ltd., U. Yong Ltd., Part, and U. Yong Industry Co., Ltd. Because we are relying on total adverse facts available to establish King Pac's dumping margin, we will instruct CBP to apply a dumping margin of 122.88 percent to King Pac.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment–Policy Notice*). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. See *Assessment–Policy Notice* for a full discussion of this clarification.

a. Export Price

With respect to export–price sales by TPBG and CP, we divided the total dumping margins (calculated as the difference between normal value and the export price) for each exporter's importer or customer by the total number of units the exporter sold to that importer or customer. We will direct CBP to assess the resulting per–unit dollar amount against each unit of merchandise on each of that importer's or customer's entries during the review period. See 19 CFR 351.212(b)(1).

b. Constructed Export Price

For constructed export–price sales by UPC/API, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries during the review period. See 19 CFR 351.212(b)(1).

Cash–Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, consistent with section 751(a)(1) of the Act: (1) the cash–deposit rates for the reviewed companies will be the rates shown above; (2) for previously investigated companies not listed above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the original less–than-fair–value (LTFV) investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash–deposit rate for all other manufacturers or exporters will continue to be 2.80 percent, the all–others rate from the amended final determination of the LTFV investigation published on July 15, 2004. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419 (July 15, 2004).

These deposit requirements shall remain in effect until further notice.

Notification Requirements

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. See *id.*

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 8, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

Appendix

1. Selection of Respondents
2. Adverse Facts Available
3. General and Administrative Expenses and Interest Expenses

[FR Doc. E7–22474 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

[3] This rate is based on the weighted average of the margins we calculated for those companies selected for individual review, excluding margins based entirely on AFA.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–811]

Purified Carboxymethylcellulose from the Netherlands: Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from respondent Akzo Nobel Functional

Chemicals B.V. (''Akzo Nobel''), and Aqualon Company (''petitioner''), the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty order on purified carboxymethylcellulose (''CMC'') from the Netherlands. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (August 24, 2007). This administrative review covers the period July 1, 2006, through June 30, 2007. Due to the withdrawal of the requests for the administrative review by both parties, we are now rescinding this review with respect to Akzo Nobel.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on CMC from the Netherlands on July 11, 2005. *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden*, 70 FR 39734 (July 11, 2005). The Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order for the period July 1, 2006, through June 30, 2007, on July 3, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 72 FR 36420 (July 3, 2007). Petitioner requested that the Department conduct an administrative review of sales of merchandise by Akzo Nobel and CP Kelco B.V. covered by the order on July 25, 2007. Akzo Nobel requested that the Department conduct an administrative review of its sales of merchandise covered by the order on July 30, 2007. In response to both requests, the Department published the initiation of the antidumping duty administrative review on CMC from the Netherlands on August 24, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (August 24, 2007).

Akzo Nobel withdrew its request for review on October 2, 2007. Petitioner withdrew its request for review of sales by Akzo Nobel on October 3, 2007.

Rescission of the Administrative Review

Pursuant to 19 CFR § 351.213(d)(1), the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. See 19 CFR § 351.213(d)(1). Both petitioner and Akzo Nobel withdrew their requests for review with respect to the latter within the 90-day time limit. Therefore, in response to the withdrawal of requests for administrative reviews by both Akzo Nobel and petitioner, the Department hereby rescinds the administrative review of the antidumping duty order on CMC from the Netherlands for the period July 1, 2006, through June 30, 2007, for Akzo Nobel. The Department intends to issue assessment instructions to the U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of this partial rescission of administrative review. The Department will direct CBP to assess antidumping duties for Akzo Nobel at the cash deposit rate in effect on the date of entry for entries during the period July 1, 2006, to June 30, 2007.

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR § 351.213(d)(4).

Dated: November 7, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22500 Filed 11–15–07 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review

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

EFFECTIVE DATE: November 16, 2007.

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

SUPPLEMENTARY INFORMATION:

Background

On May 30, 2007, the Department of Commerce (the Department) published a notice of initiation of administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. *See Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 29968 (May 30, 2007). The period of review is April 1, 2006, through March 31, 2007, and the preliminary results are currently due no later than December 31, 2007. The review covers nine producers/exporters of the subject merchandise to the United States.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines that it is not practicable to complete the review within the foregoing time period. We determine that it is not practicable to complete this administrative review within the time limits mandated by section 751(a)(3)(A) of the Act because this review involves a number of complicated issues for certain of the respondents, including a request for revocation for one of the respondents. Analysis of these issues requires additional time.

In addition, we are also conducting numerous concurrent antidumping

proceedings which place a constraint on the number of analysts that can be assigned to this case. Not only do these other cases present a significant workload, but the deadlines for a number of the cases coincide and/or overlap with deadlines in this antidumping proceeding. Therefore, we have fully extended the deadline for completing the preliminary results until April 29, 2008, which is 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of the review continues to be 120 days after the publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: November 8, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22467 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Penn State University

Notice of Decision on Application for Duty–Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L.106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 2104, U.S. Department of Commerce, 14th and Constitution Ave, NW, Washington, D.C.

Comments: None received. Decision: Approved. We know of no instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, that was being manufactured in the United States at the time of its order.

Docket Number: 07–040. Applicant: Penn State University, 311 Deike Building, University Park, PA 16802. Instrument: Distributed Temperature Sensor, model Sentinel DTS–SR(0–5KM). Manufacturer: Sensornet Ltd., United Kingdom. Intended Use: See notice at 72 FR 59076, October 18, 2007. Reason: Good temperature resolution and the capability to collect data every minute to 0.1° C. accuracy are essential for the study that involves the determination of stream–aquifer interaction as related to precipitation events, and the detection of areas that build and release moisture along the hillslope.

Dated: November 8, 2007.

Faye Robinson,

Director Statutory Import Programs Staff Import Administration.

[FR Doc. E7–22469 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate (PET) Film from India: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0197 or (202) 482–1398, respectively.

Background

On August 6, 2007, the Department published the preliminary results of the administrative review of the countervailing duty order on polyethylene terephthalate (PET) film from India for the period January 1, 2005 through December 31, 2005. *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Notice of Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review*, 72 FR 43607 (August 6, 2007). The current deadline for the final results of review is December 4, 2007. This review covers two producers/exporters of the subject merchandise to the United States, MTZ Polyfilms, Ltd. (MTZ) and Garware Polyester Ltd. (Garware), as well as the government of India (GOI).

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) requires the Department to issue the final results in an administrative review within 120 days of the publication date of the preliminary results. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days. The Department has determined that completion of the final results of this review within the original time period is not practicable due to the additional analysis that must be performed on the information collected at the verification conducted after the issuance of the preliminary results. Thus, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the final results of review by an additional 60 days. As the 180th day falls on a Saturday, the final results will now be due no later than February 4, 2008.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: November 9, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22465 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD91

Endangered Species; File No. 10027

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Center for Biodiversity and Conservation, American Museum of Natural History, Central Park West at 79th Street, New York, New York 10024, has applied in due form for a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before [*December 17, 2007*.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI

96814–4700; phone (808)973–2935; fax (808)973–2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 10027.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant proposes to study the population biology and connectivity of green and hawksbill sea turtles focusing on distribution and abundance, ecology, health, and threats to sea turtles at the Palmyra Atoll in the Pacific Ocean. Researchers would also consider management and conservation applications of their research. Up to 300 green and 100 hawkbill sea turtles would be captured by hand or net, examined, measured, photographed, flipper and Passive Integrated Transponder tagged, blood sampled, carapace sampled, shell etched and painted, fecal sampled, have their temperature measured, and released. Up to 75 of the green and 25 of the hawksbill sea turtles would also be gastric lavaged before release. Up to 15 of the green and 5 of the hawksbill sea turtles would have transmitters affixed to their carapace before release. Additionally, researchers would examine, measure, tissue sample, stomach sample, humerus sample, and photograph up to 30 green and 10 hawksbill sea turtle carcasses that they may encounter. The permit would be valid for 5 years and the research would occur.

Dated: November 9, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–22450 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 071017603–7604–01]

RIN 0648–XD12

Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90–day Finding for a Petition to Reclassify the Loggerhead Turtle in the North Pacific Ocean as a Distinct Population Segment with Endangered Status and to Designate Critical Habitat

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

ACTION: Notice of petition finding; request for information and comments.

SUMMARY: The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, announces the 90–day finding for a petition to reclassify loggerhead turtles (*Caretta caretta*) in the North Pacific Ocean as a Distinct Population Segment (DPS) with endangered status and designate critical habitat under the Endangered Species Act of 1973, as amended (ESA). The loggerhead is currently listed as threatened throughout its range. We find that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

We are initiating a review of the status of the species to determine whether the petitioned action is warranted and to determine whether any additional changes to the current listing of the loggerhead turtle are warranted. To ensure a comprehensive review, we are soliciting information and comments pertaining to this species from any interested party.

DATES: Written comments and information related to this petition finding must be received [see **ADDRESSES**] by January 15, 2008.

ADDRESSES: Written comments and information should be addressed to the Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–427–2522, or by e-mail to: *northpacific.loggerhead@noaa.gov*. The petition is available for download and review at *http://www.nmfs.noaa.gov/pr/pdfs/fr/petition__north__pacific__loggerhead.pdf*

Comments received will be available for public inspection, by appointment, during normal business hours by calling 301–713–2322.

FOR FURTHER INFORMATION CONTACT: Barbara Schroeder by phone 301–713–2322, fax 301–427–2522, or e-mail *barbara.schroeder@noaa.gov*; Christina Fahy by phone 562–980–4023, fax 562–980–4027, or e-mail *christina.fahy@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires us to make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Our implementing regulations (50 CFR 424.14) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists, we take into account several factors, including information submitted with, and referenced in, the petition and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find that a petition presents substantial information indicating that the requested action may be warranted, we are also required to conduct a status review of the species. The determination of whether or not the petitioned action is warranted must be made within one year of the receipt of the petition.

Analysis of Petition

On July 16, 2007, we received a petition from the Center for Biological Diversity and the Turtle Island Restoration Network requesting that loggerhead turtles in the North Pacific Ocean be reclassified as a DPS (see Petition Finding for discussion on Distinct Population Segments) with endangered status and that critical habitat be designated.

The petition contains a detailed description of the species' natural

history and status, including information on distribution and movements, population structure, behavior, population status and trends, and factors contributing to the current status of the species in the North Pacific Ocean. The petitioners assert that the North Pacific loggerhead is discrete from loggerhead populations found elsewhere due to physical, genetic, physiological, ecological, and behavioral factors, and they provide information they believe supports this assertion. The petitioners further assert that the North Pacific loggerhead population is both biologically and ecologically significant relative to the species. The petitioners maintain that the North Pacific loggerhead nesting population has undergone a marked decline in recent decades, and cite coastal development, bycatch in fisheries, marine pollution, illegal take, and global warming as primary threats to the population. The petitioners provide information on the North Pacific loggerhead relative to the ESA section 4(a)(1) factors and assert that the North Pacific loggerhead population warrants an endangered listing.

Finally, the petitioners request that if the North Pacific loggerhead is not determined to meet the DPS criteria, that loggerheads throughout the Pacific Ocean be designated as a DPS and listed as endangered.

Petition Finding

Based on the above information and criteria specified in 50 CFR 424.14(b)(2), we find the petitioners present substantial scientific and commercial information indicating that a reclassification of the loggerhead in the North Pacific Ocean as a DPS and listing of that DPS with endangered status may be warranted. The ESA defines a ''species'' as ''...any subspecies of fish or wildlife or plants and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' NMFS and the U.S. Fish and Wildlife Service (USFWS) published a joint policy defining the phrase ''distinct population segment'' on February 7, 1996 (61 FR 4722). Three elements are considered in a decision regarding the listing, delisting, or reclassification of a DPS as endangered or threatened under the ESA: discreteness of the population segment in relation to the remainder of the species, significance of the population segment to the species, and conservation status. Under section 4(b)(3) of the ESA, an affirmative 90–day finding requires that we commence a status review on the loggerhead turtle. NMFS and the USFWS recently completed a 5–year review of the loggerhead turtle, as required under Section 4(c)(2) of the Endangered Species Act of 1973, as amended (NMFS and USFWS 2007). This review recommended that a full status review of the loggerhead be conducted in accordance with the DPS policy. We are initiating this review and, once it has been completed, a finding will be made as to whether reclassification of the loggerhead in the North Pacific Ocean, with endangered status, is warranted, warranted but precluded by higher priority listing actions, or not warranted, as required by section 4(b)(3)(B) of the ESA. The review will also consider whether any additional changes to the current threatened listing for the loggerhead are warranted.

There is no critical habitat designated for the loggerhead turtle. The ESA currently requires us to make a critical habitat determination concurrent with listing determinations. The ESA defines ''critical habitat'' as

> ''...the specific areas within the geographical area occupied by the species, at the time it is listed... on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and...specific areas outside the geographical area occupied by the species at the time it is listed... upon a determination...that such areas are essential for the conservation of the species.''

Section 4(a)(1) Factors and Basis for Determination

Under section 4(a)(1) of the ESA and the implementing regulations at 50 CFR 424.11(c), a species shall be reclassified, if the Secretary of Commerce determines, based on the best scientific and commercial data available after conducting a review of the species' status, that the species is threatened or endangered because of one or a combination of the following: (1) present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

Information Solicited

To ensure that the status review is complete and based on the best available data, we are soliciting information and comments on whether loggerhead turtles in the North Pacific Ocean, or any other area, qualify as a DPS and, if so, whether it should be classified as threatened or endangered based on the above ESA section 4(a)(1) factors. Specifically, we are soliciting information in the following areas relative to loggerheads in the North Pacific and elsewhere: (1) historical and current population status and trends; (2) historical and current distribution; (3) migratory movements and behavior; (4) genetic population structure; (5) current or planned activities that may adversely impact loggerheads; and (6) ongoing efforts to protect loggerheads. We request that all data, information, and comments be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

All submissions must contain the submitter's name, address, and any association, institution, or business that the person represents. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**).

Critical Habitat

We are also requesting information on areas within U.S. jurisdiction that may qualify as critical habitat for loggerhead turtles, both in the North Pacific Ocean and elsewhere within the species' range. Areas that include the physical and biological features essential to the conservation of the species should be identified. Areas outside the present range should also be identified if such areas are essential to the conservation of the species. Essential features include, but are not limited to: (1) space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

Peer Review

For listings, delistings, and reclassifications under the ESA, NMFS and USFWS have a joint policy for peer review of the scientific data (59 FR 34270, July 1, 1994). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. We are soliciting the names of recognized experts in the field that could serve as peer reviewers for the loggerhead status review. Independent peer reviewers will be selected from the academic and scientific community, applicable tribal and other Native American groups,

Federal and state agencies, the private sector, and public interest groups.

References Cited

National Marine Fisheries Service and U.S. Fish and Wildlife Service. 2007. Loggerhead sea turtles (*Caretta caretta*) 5–year review: summary and evaluation. 65 pp.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: November 9, 2007.

Samuel D. Rauch III,

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

[FR Doc. 07–5710 Filed 11–13–07; 1:20 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD27

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Addendum to Earlier Notice - ''Notice of Public Hearings for Amendments 15A and 15B to the Snapper Grouper Fishery Management Plan for the South Atlantic Region''.

SUMMARY: The start time for the public hearing scheduled for Atlantic Beach, NC on December 3, 2007 regarding Amendment 15A and Amendment 15B to the Snapper Grouper Fishery Management Plan has been changed from 6:00 p.m. to 7:00 p.m.

DATES: The change applies to the public hearing scheduled for December 3, 2007.

ADDRESSES: The public hearing will be held at the Sheraton Atlantic Beach, 2717 W. Fort Macon Road, Atlantic Beach, NC 28512; telephone: (252) 240–1155

FOR FURTHER INFORMATION CONTACT: Richard DeVictor, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; fax: (843) 769–4520; email address: Richard.devictor@safmc.net.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on October 19, 2007 (72 FR 59257). This notice serves as an addendum to change the start time of the December 3 public hearing. All other previously-published information remains unchanged.

Dated: November 13, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22404 Filed 11–15–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0018]

Federal Acquisition Regulation; Information Collection; Certification of Independent Price Determination and Parent Company and Identifying Data

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning certification of independent price determination and parent company and identifying data. The clearance currently expires on January 31, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it 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.

DATES: Submit comments on or before January 15, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ernest Woodson, Contract Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Agencies are required to report under 41 U.S.C. 252(d) and 10 U.S.C. 2305(d) suspected violations of the antitrust laws (*e.g.*, collusive bidding, identical bids, uniform estimating systems, etc.) to the Attorney General.

As a first step in assuring that Government contracts are not awarded to firms violating such laws, offerors on Government contracts must complete the certificate of independent price determination. An offer will not be considered for award where the certificate has been deleted or modified. Deletions or modifications of the certificate and suspected false certificates are reported to the Attorney General.

B. Annual Reporting Burden

Respondents: 64,250.
Responses Per Respondent: 20.
Total Responses: 1,285,000.
Hours Per Response: .01.
Total Burden hours: 12,850.
OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0018, Certification of Independent Price Determination and Parent Company and Identifying Data, in all correspondence.

Dated: November 8, 2007.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. 07–5711 Filed 11–15–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of the Final Supplemental Environmental Impact Statement for the Rueter-Hess Reservoir Expansion Project, Parker, CO

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Omaha District has

prepared a Final Supplemental Environmental Impact Statement (SEIS) to analyze the direct, indirect and cumulative effects of enlarging the currently permitted Rueter-Hess Reservoir in Parker, CO. The Draft SEIS was published in the **Federal Register** on July 27, 2007 (72 FR 41300). The Final SEIS includes responses to comments received on the Draft SEIS.

The current project was authorized in February 2004 with Department of the Army Permit No. 199980472 (Section 404 Permit). The basic purpose of the Proposed Action would allow the reservoir to serve as a regional water management facility for multiple water providers in northern Douglas County; enable them to meet peak demands; greatly enhance water management in the region; and help extend the yield of the Denver Basin aquifers, a non-renewable water source and the primary source of water for the South Metro area. Expansion of the reservoir would result in direct impacts to an additional 0.21 acres of wetlands and 4 miles of intermittent stream channel (in addition to the 6.7 acres of wetlands and 5 miles of other waters of the U.S. permitted as part of the 16,200-acre-foot [AF] reservoir). This action requires authorization from the Corps under Section 404 of the Clean Water Act. The Permittee and Applicant is the Parker Water and Sanitation District (PWSD).

The Final SEIS was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Corps' regulations for NEPA implementation (33 Code of Federal Regulations [CFR] parts 230 and 325, Appendices B and C). The Corps, Omaha District, Regulatory Branch is the lead federal agency responsible for the Final SEIS and information contained in the SEIS serves as the basis for a decision regarding issuance of a Section 404 Permit modification. It also provides information for local and state agencies having jurisdictional responsibility for affected resources.

DATES: The 30-day Notice of Availability of the Final SEIS ends on December 17, 2007.

ADDRESSES: Send written comments regarding the Proposed Action and Final SEIS to Rodney Schwartz, Senior Project Manager, U.S. Army Corps of Engineers, Omaha District—Regulatory Branch, 12565 West Center Road, Omaha, NE 68144–3869 or via e-mail: *rodney.j.schwartz@usace.army.mil.* Requests to be placed on or removed from the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Rodney Schwartz, Senior Project Manager, U.S. Army Corps of Engineers at 402–221–4143; Fax 402–221–4939.

SUPPLEMENTARY INFORMATION: The purpose of the Final SEIS is to provide decision-makers and the public with information pertaining to the Proposed Action and alternatives, and to disclose environmental impacts and identify mitigation measures to reduce impacts. PWSD proposes to enlarge the Rueter-Hess Reservoir from the currently permitted design of 16,200 AF by 55,800 AF for a total storage capacity of approximately 72,000 AF. This is considered the site's maximum storage capacity based on the site's topography. The proposed expanded reservoir pool would inundate approximately 1,140 acres (an additional 672 acres). PWSD would maintain a 5,000-AF emergency reserve pool in the reservoir (elevation 6,110 feet) to be used as needed to provide a reliable water supply for its customers. The proposed design involves raising the currently permitted dam (embankment) by 61 feet, to a crest elevation of 6,220 feet, using a downstream raise concept. The final dam is proposed to be a 196-foot-high and 7,675-foot-long zoned earth embankment.

The purpose for the enlarged reservoir is to provide sufficient storage of Denver Basin groundwater, and the associated reuse water from initial Denver Basin use, for selected South Metro Denver area water providers, and to assist in sustaining the Denver Basin aquifers. The additional water to be stored in a proposed expanded Rueter-Hess Reservoir would come from existing sources (i.e., Denver Basin groundwater and associated reusable return flows). The reservoir would be used to manage supplies during off-peak times and use this water during peak times to reduce the need for instantaneous production from Denver Basin wells. In addition to the proposal to expand the reservoir, new pipelines would be installed to deliver the water to and from the new Project Participants (Town of Castle Rock, Castle Pines North Metropolitan District and Stonegate Metropolitan District).

In addition to the Proposed Action, the Final SEIS analyzes two alternatives: (1) The Reduced-Capacity Reservoir (47,000 AF) Alternative, and (2) the No Action Alternative. The Reduced-Capacity Reservoir Alternative dam would be located along the same axis as the Proposed Action, but would be smaller in length (7,160 feet) and height (179 feet). The reservoir would have a surface area of 934 acres at normal pool. The No Action Alternative assumes that PWSD and the other Project Participants would continue their current operations of primarily providing water to their customers with Denver Basin groundwater by drilling additional wells to meet peak summertime demands. PWSD would construct the currently permitted Rueter-Hess Reservoir (16,200 AF) to obtain firm annual yield for the PWSD, focusing on meeting peak summertime demands. Stonegate would have some storage capacity (1,200 AF) in the currently permitted reservoir. Castle Rock and Castle Pines North would not have surface water storage available to meet their needs; therefore, their ability to capture and reuse their reusable return flows would be limited. Castle Rock and Castle Pines North would extract and use their reuse water only as it is being generated from their advanced wastewater treatment plants and lawn irrigation.

Copies of the Final SEIS will be available for review at:

1. Parker Library, 10851 South Crossroads Drive, Parker, CO 80134.

2. Philip S. Miller Library, 100 S. Wilcox, Castle Rock, CO 80104.

3. Parker Water and Sanitation District, 19801 East Mainstreet, Parker, CO 80138.

4. U.S. Army Corps of Engineers, Denver Regulatory Office, 9307 S. Wadsworth Boulevard, Littleton, CO 80128.

5. Electronically at *https://www.nwo.usace.army.mil/html/od-tl/eis-info.htm.*

Copies may also be obtained from the Corps' third-party contractor, URS Corporation, Attn: Rachel Badger, 8181 East Tufts Avenue, Denver, CO 80237; 303–740–2778; Fax 303–694–3946; *rachel_badger@urscorp.com.*

Martha S. Chieply,

Chief, Regulatory Branch, Operations Division, Omaha District.

[FR Doc. E7–22317 Filed 11–15–07; 8:45 am]

BILLING CODE 3710–62–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 17, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by email to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 7, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Extension.

Title: Designation As An Eligible Institution under the Title III, Part A Strengthening Institutions Program and the Title V, Developing Hispanic-Serving Institutions Program Application Guide.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1,200.

Burden Hours: 8,400.

Abstract: Collection of information is necessary in order for the Secretary of Education to designate an institution of higher education (IHE) eligible to apply for funding under Title III, Part A and Title V of the Higher Education Act of 1965, as amended (HEA). An institution must apply to the Secretary to be designated as an eligible institution.

The programs authorized include the Strengthening Institutions Program (SIP), the American Indian Tribally Controlled Colleges and Universities (TCCU), and the Alaskan Native and Native Hawaiian-Serving Institutions (ANNH) Programs. Title V authorizes the Hispanic-Serving Institutions Program. These programs award discretionary grants to eligible institutions of higher education as that they might increase their self-sufficiency by improving academic programs, institutional management and fiscal stability.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3518. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 07–5660 Filed 11–15–07; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 15, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 7, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Program for International Students Assessment (PISA) 2008 Field Test, 2009 Full Scale.

Frequency: One time.

Affected Public: Individuals or household; State, local, or Tribal government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,270.

Burden Hours: 998.

Abstract: The Program for International Student Assessment (PISA) is a new system of international assessments that focus on 15-year-olds' capabilities in reading literacy, mathematics literacy, and science literacy. PISA 2000 was the first cycle of PISA, which will be conducted every three years, with a primary focus on one area for each cycle. PISA 2000 focused on reading literacy, mathematics literacy was the focus in 2003, and science literacy was the focus in 2006. In 2009, the focus will again be on reading literacy. In addition to assessment data, PISA provides background information on school context and student demographics to benchmark performance and inform policy.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3521. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 07–5661 Filed 11–15–07; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[OE Docket No. EA–330]

Application To Export Electric Energy; The Royal Bank of Scotland plc

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: The Royal Bank of Scotland plc (RBS) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before December 17, 2007.

ADDRESS: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C.824a(e)).

On October 2, 2007, the Department of Energy (DOE) received an application from RBS for authority to transmit electric energy from the United States to Canada as a power marketer. RBS, a public limited liability company registered in Scotland, has requested an electricity export authorization with a 5-year term. RBS does not own or control any electric generation, transmission, or distribution assets, nor does it have a franchised service area. The electric energy which RBS proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States.

RBS will arrange for the delivery of exports to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Co., Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, Inc., New York Power Authority, Niagara Mohawk Power Corp., Northern States Power Company, Vermont Electric Power Company, and Vermont Electric Transmission Co.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by RBS has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the RBS application to export electric energy to Canada should be clearly marked with Docket No. EA–330. Additional copies are to be filed directly with Paul Stevelman, Esq., Managing Director and Deputy General Counsel, RBS Greenwich Capital, 600 Steamboat Road, Greenwich, CT 06830 AND Brian Chisling, Esq., Senior Counsel, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017–3954.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permitting/electricity_imports_exports.htm*, or by e-mailing Odessa Hopkins at *Odessa.hopkins@hq.doe.gov.*

Issued in Washington, DC, on November 9, 2007.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E7–22424 Filed 11–15–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–331]

Application to Export Electric Energy; The Royal Bank of Scotland plc

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: The Royal Bank of Scotland plc (RBS) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before December 17, 2007.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, *Mail Code:* OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–5860).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C.824a(e)).

On October 2, 2007, the Department of Energy (DOE) received an application from RBS for authority to transmit electric energy from the United States to Mexico as a power marketer. RBS has requested an electricity export authorization with a 5-year term. RBS does not own or control any generation, transmission, or distribution assets, nor does it have a franchised service area. The electric energy which RBS proposes to export to Mexico would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the U.S.

RBS will arrange for the delivery of exports to Mexico over the international transmission facilities owned by San Diego Gas & Electric Company, El Paso Electric Company, Central Power & Light Company, Sharyland Utilities, and Comision Federal de Electricidad, the national electric utility of Mexico.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by RBS has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

DOE notes that RBS shall have no authority to export electricity to Mexico until the conclusion of this proceeding and the issuance of an order granting authority to export.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the dates listed above.

Comments on the RBS application to export electric energy to Mexico should be clearly marked with Docket No. EA–331. Additional copies are to be filed directly with Paul Stevelman, Esq., Managing Director and Deputy General Counsel, RBS Greenwich Capital, 600 Steamboat Road, Greenwich, CT 06830 AND Brian Chisling, Esq., Senior Counsel, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017–3954.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permitting/electricity_imports_exports.htm*, or by e-mailing Odessa Hopkins at *Odessa.hopkins@hq.doe.gov*.

Issued in Washington, DC, on November 9, 2007.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E7–22434 Filed 11–15–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of the Draft Programmatic Environmental Impact Statement for the Designation of Energy Corridors in Eleven Western States and Notice of Public Hearings

AGENCIES: Office of Electricity Delivery and Energy Reliability (OE), Department of Energy (DOE) and the Bureau of Land Management (BLM), Department of the Interior (DOI).

ACTION: Notice of Availability of the Draft Programmatic Environmental Impact Statement for the Designation of Energy Corridors in Eleven Western States and Notice of Public Hearings.

SUMMARY: DOE and BLM of the DOI as co-lead agencies, and the U.S. Forest Service (FS) of the Department of Agriculture, the Department of Defense (DOD), and the U.S. Fish and Wildlife Service (USFWS) of the DOI as cooperating Federal Agencies (the Agencies) announce the availability of the Draft Programmatic Environmental Impact Statement for the Designation of Energy Corridors in the 11 Western States (Draft PEIS) (DOE/EIS—0386) and the dates and locations for the public hearings to receive comments on the Draft PEIS.

The Coeur d'Alene Tribe, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), the State of Wyoming, and the Lincoln, Sweetwater, and Uinta counties and conservation districts in Wyoming are also cooperating agencies. The Department of Commerce (DOC) and the Federal Energy Regulatory Commission (FERC) are consulting agencies.

The Agencies prepared the Draft PEIS pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 et seq., the Council on Environmental Quality NEPA regulations, 40 CFR Parts 1500–1508, the DOE NEPA regulations, 10 CFR part 1021, and 10 CFR part 1022, Compliance with Floodplain and Wetland Environmental Review Requirements, the BLM planning regulations, 43 CFR part 1600, and applicable FS planning regulations.

Section 368 of the Energy Policy Act of 2005 (EPAct 2005), Public Law 109–58, directs the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy and the Secretary of the Interior, in consultation with FERC, States, tribal

or local units of governments, as appropriate, affected utility industries, and other interested persons, to designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the 11 contiguous Western States (as defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o)), perform any environmental reviews that may be required to complete the designation of such corridors, and incorporate the designated corridors into relevant agency land use and resource management plans or equivalent plans.

The 11 Western States are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

DATES: The 90-day public comment period begins with the publication of the Notice of Availability of the Draft PEIS in the **Federal Register** by the Environmental Protection Agency and continues until February 14, 2008. See Supplementary Information section for meeting dates.

ADDRESSES: See Supplementary Information section for meeting addresses. Submit electronic comments and requests to speak at one of the public meetings on-line at *http://corridoreis.anl.gov*. Mail comments to: West-wide Energy Corridor Draft PEIS, Argonne National Laboratory, 9700 S. Cass Avenue, Bldg. 900, Mailstop 4, Argonne, IL 60439; or fax comments toll-free to: 1–866–542–5904. Requests to speak at one of the meetings or for more information about the Draft PEIS may also be addressed to: Ms. LaVerne Kyriss, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, phone: 202–586–1056, facsimile: 202–586–8008, or electronic mail at *laverne.kyriss@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: For information on the proposed project contact Ms. LaVerne Kyriss as indicated in the **ADDRESSES** section of this notice.

For general information on the DOE NEPA process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; phone: 202–586–4600 or leave a message at 800–472–2756; facsimile: 202–586–7031.

For general information on the BLM's NEPA process, contact: Ron Montagna, (202) 452–7782, or KateWinthrop, (202) 452–5051, at: BLM, WO–350, MS 1000 LS, 1849 C Street, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Agencies invite interested Members of Congress, state and local governments, other Federal agencies, American Indian tribal governments, organizations, and members of the public to provide comments on the Draft PEIS. Written and oral comments will be given equal weight, and the agencies will consider all comments received or postmarked by February 14, 2008 in preparing the Final PEIS. Comments received or postmarked after that date will be considered to the extent practicable.

Public Meetings

Public meeting dates and addresses are:

1. January 8, 2008, 2 to 5 and 6 to 8 p.m., Portland, OR: Doubletree Portland Lloyd Center, 1000 North West Multnomah and Sacramento, CA: California Energy Commission, 1516 Ninth Street.

2. January 10, 2008, 2 to 5 and 6 to 8 p.m., Seattle, WA: Renaissance Hotel Seattle, 515 Madison Street and Ontario, CA: Ayres Hotel and Suites, Ontario Airport/Convention Center, 1945 East Holt Boulevard.

3. January 15, 2008, 2 to 5 and 6 to 8 p.m., Phoenix, AZ: BLM Training Center, 9828 North 31st Avenue and Grand Junction, CO: Marriott Courtyard, 765 Horizon Drive.

4. January 17, 2008, 2 to 5 and 6 to 8 p.m., Las Vegas, NV: The Atomic Testing Museum, 1755 E. Flamingo Road and Salt Lake City, UT: Airport Hilton Hotel, 5151 Wiley Post Way.

5. January 23, 2008, 2 to 5 p.m., Window Rock, AZ: Navajo Education Center, Morgan Boulevard.

6. January 24, 2008, 2 to 5 and 6 to 8 p.m., Albuquerque, NM: Holiday Inn and Suites, 5050 Jefferson Street.

7. January 29, 2008, 2 to 5 and 6 to 8 p.m., Helena, MT: Best Western Helena Great Northern Hotel, 835 Great Northern Boulevard and Cheyenne, WY: Best Western Hitching Post Inn and Conference Center, 1700 West Lincoln Way.

8. January 31, 2008, 2 to 5 and 6 to 8 p.m., Boise, ID: Best Western Vista Inn and Conference Center, 2645 Airport Way and Denver, CO: Holiday Inn Cherry Creek, 455 South Colorado Boulevard.

9. February 5, 2008, 2 to 4 p.m., Washington, DC: Embassy Suites Washington Convention Center, 900 10th Street, NW.

Requests to speak at a specific public hearing should be received by DOE as indicated in the **ADDRESSES** section no later than two business days before that hearing. Requests to speak may also be made at the time of registration for the hearing(s). However, persons who have submitted advance requests to speak will be given priority if time should be limited during the hearing. Please be aware that anthrax screening delays conventional mail delivery to DOE.

The Draft PEIS consists of a stand alone Summary, the PEIS Chapters (Volume 1, 567 pages), the PEIS Appendices (Volume 2, 400 pages), and Maps (Volume 3, 131 pages). The entire Draft PEIS is available online at *http://corridoreis.anl.gov* or on a CD–ROM. Requests for paper copies of the Draft PEIS, or additional copies in either format should be addressed to West-wide Energy Corridor Draft PEIS, 9700 South Cass Avenue, Building 900, Mailstop 4, Argonne, IL 60439. The Draft PEIS is also available on the DOE NEPA Web site at *http://www.eh.doe.gov/nepa/docs/deis/deis.html*.

The Draft PEIS Volume 3 map atlas is printed on ledger-sized paper. The CD version of the Draft PEIS includes the map atlas in PDF format. The most powerful and flexible version of the map data is available on the project Web site (*http://corridoreis.anl.gov*). The Web site maps are available within a geographic information system (GIS) database that allows users to merge, enlarge, and view multiple map data layers. Software and instructions to use the GIS data are user friendly and available for free download from the public Web site.

The purpose and need for the Agencies' action is to implement EPAct Section 368 by designating corridors for the preferred locations of future oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities and to incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans.

Section 368 directs the Agencies to take into account the need for upgraded and new infrastructure and to take actions to improve reliability, relieve congestion, and enhance the capability of the national grid to deliver energy. This action only pertains to the designation of corridors for potential facilities on Federal lands located within the 11 Western States. In addition, this action is intended to improve coordination among the Agencies to increase the efficiency of using designated corridors.

In many areas of the United States, including the West, the infrastructure required to deliver energy has not always kept pace with growth in energy

demand. The Agencies hope to improve the delivery of energy in the West, while enhancing the western electric transmission grid for the future, by establishing a coordinated network of Federal energy corridors on Federal lands in the West. The Draft PEIS analyzes the environmental impacts of designating Federal energy corridors in 11 Western States, and incorporating those designations into relevant agency land use and resource management plans or equivalent plans.

The Draft PEIS analyzes two alternatives: A No Action Alternative and the Proposed Action to designate new and locally approved energy corridors (Proposed Action). Under the No Action Alternative, Federal energy corridors mandated by EPAct Section 368 would not be designated on Federal lands in the 11 Western States; the siting and development of energy transport projects would continue under current agency procedures for granting rights-of-way (ROW), for which energy transport project applicants must satisfy the often disparate requirements of multiple agencies for the same project. There would be relatively little West-wide coordination for siting and permitting these projects to meet current and future energy needs in the 11 Western States.

Under the Proposed Action, the Agencies would designate and incorporate through relevant land use and resource management plans certain Federal energy corridors that would consist of existing, locally designated Federal energy corridors together with additional, newly designated energy corridors located on Federal land. These energy corridors would comprise a comprehensive, coordinated network of preferred locations for future energy projects that could be developed to satisfy demand for energy. Under the Proposed Action, approximately 6,055 miles of Federal energy corridors would be designated for multimodal energy transmission and transportation in the 11 Western States. The energy corridors would typically be 3,500 feet wide, though the width may vary in certain areas because of environmental, topographic or management constraints. BLM, DOD, FS and USFWS would amend their respective land use or equivalent plans to incorporate the designated energy corridors; the amendments would be effective upon signing of a Record(s) of Decision. The designation of energy corridors under the Proposed Action would require the amendment of the following land management or equivalent plans.

LAND USE OR EQUIVALENT PLANS PROPOSED FOR AMENDMENT BY DESIGNATING EPACT SECTION 368 ENERGY CORRIDORS ON FEDERAL LANDS IN THE 11 WESTERN STATES [a b c]

State	Land use plan	Agency office(s)
Arizona	Arizona Strip RMP	BLM, Arizona Strip FO.
	Coronado NF LRMP	FS, Coronado NF.
	Glen Canyon NRA GMP	NPS, Glen Canyon NRA.
	Havasu NWR Comprehensive Conservation Plan	USFWS, Lake Havasu NWR.
	Kaibab NF LRMP	FS, Kaibab NF.
	Kingman RMP	BLM, Kingman FO, Lake Havasu FO.
	Lake Havasu RMP	BLM, Lake Havasu FO.
	Lake Mead NRA GMP	NPS, Lake Mead NRA.
	Lower Gila North MFP	BLM, Hassayampa FO.
	Lower Gila South RMP	BLM, Hassayampa FO, Lower Sonoran FO.
	Phoenix RMP	BLM, Tucson FO, Hassayampa FO, Lower Sonoran FO.
	Prescott NF LRMP	FS, Prescott NF.
	Safford RMP	BLM, Safford FO, Tucson FO.
	Apache-Sitgreaves NF LRMP	FS, Apache-Sitgreaves NF.
	Tonto NF LRMP	FS, Tonto NF.
	Yuma Proving Ground INRMP	DOD, U.S. Army, Yuma Proving Ground.
	Yuma RMP	BLM, Yuma FO.
California	Alturas RMP	BLM, Alturas FO.
	Angeles NF LRMP	FS, Angeles NF.
	Arcata RMP	BLM, Arcata FO.
	Bishop RMP	BLM, Bishop FO.
	Caliente RMP	BLM, Bakersfield FO, Bishop FO, Ridgecrest FO.
	California Desert Conservation Area Plan	BLM, Barstow FO, El Centro FO, Lake Havasu FO, Needles FO, Ridgecrest FO, Palm Springs-South Coast FO.
	Proposed Eagle Lake RMP	BLM, Eagle Lake FO.
	China Lake Naval Air Weapons Station INRMP	DOD, U.S. Navy, China Lake Naval Air Weapons Station.
	Cleveland NF LRMP	FS, Cleveland NF.
	Eastern San Diego RMP	BLM, El Centro FO.
	Havasu NWR Comprehensive Conservation Plan	USFWS, Lake Havasu NWR.
	Imperial Sand Dunes RAMP	BLM, El Centro FO.
	Inyo NF LRMP	FS, Inyo NF.
	Klamath NF LRMP	FS, Klamath NF.
	Lassen NF LRMP	FS, Lassen NF.
	Modoc NF LRMP	FS, Modoc NF.
	Proposed Alturas RMP	BLM, Alturas FO.
	Redding RMP	BLM, Redding FO.
	San Bernadino NF LRMP	FS, San Bernadino NF.
	Shasta-Trinity NF LRMP	FS, Shasta-Trinity NF.
	Proposed Sierra RMP	BLM, Folsom FO.
	Six Rivers NF LRMP	FS, Six Rivers NF.
	South Coast RMP	BLM, Palm Springs-South Coast FO.
	Tahoe NF LRMP	FS, Tahoe NF.
	Proposed Surprise RMP	BLM, Surprise FO.
	Ukiah RMP	BLM, Ukiah FO.
Colorado	Arapaho-Roosevelt NF LRMP	FS, Arapaho-Roosevelt NF.

LAND USE OR EQUIVALENT PLANS PROPOSED FOR AMENDMENT BY DESIGNATING EPACT SECTION 368 ENERGY CORRIDORS ON FEDERAL LANDS IN THE 11 WESTERN STATES [a b c]—Continued

State	Land use plan	Agency office(s)
	Glenwood Springs RMP	BLM, Glenwood Springs FO.
	Grand Junction RMP	BLM, Grand Junction FO.
	Grand Mesa-Uncompahgre-Gunnison NF LRMP	FS, Grand Mesa-Uncompahgre-Gunnison NF.
	Gunnison RMP	BLM, Gunnison FO.
	Kremmling RMP	BLM, Kremmling FO.
	Little Snake RMP	BLM, Little Snake FO.
	Curecanti NCA GMP	NPS, Curecanti NRA.
	Routt NF LRMP	FS, Medicine Bow and Routt NF, Thunder Basin NG.
	Royal Gorge RMP	BLM, Royal Gorge FO.
	Pike-San Isabel NF LRMP	FS, Pike-San Isabel NF.
	San Juan NF LRMP	FS, San Juan NF.
	San Juan/San Miguel RMP	BLM, Dolores FO, Uncompahgre FO.
	Uncompahgre Basin RMP	BLM, Uncompahgre FO.
	White River RMP	BLM, White River FO.
Idaho	Big Desert MFP	BLM, Upper Snake FO.
	Bruneau MFP	BLM, Bruneau FO.
	Cassia RMP	BLM, Burley FO.
	Coeur d'Alene RMP	BLM, Coeur d'Alene FO.
	Idaho Panhandle NF LRMP	FS, Idaho Panhandle NF.
	Jarbidge RMP	BLM, Bruneau FO, Four Rivers FO, Jarbridge FO.
	Kuna MFP	BLM, Four Rivers FO.
	Little Lost-Birch Creek MFP	BLM, Upper Snake FO.
	Malad MFP	BLM, Pocatello FO.
	Medicine Lodge RMP	BLM, Upper Snake FO.
	Monument RMP	BLM, Burley FO, Shoshone FO.
	Pocatello RMP	BLM, Pocatello FO.
	Owyhee RMP	BLM, Four Rivers FO, Owyhee FO.
	Caribou-Targhee NF LRMP	FS, Caribou-Targhee NF.
	Twin Falls MFP	BLM, Burley FO.
Montana	Beaverhead-Deerlodge NF LRMP	FS, Beaverhead-Deerlodge NF.
	Billings RMP	BLM, Billings FO.
	Dillon RMP	BLM, Dillon FO.
	Garnet RMP	BLM, Missoula FO.
	Headwaters RMP	BLM, Butte FO.
	Lolo NF LRMP	FS, Lolo NF.
Nevada	Black Rock-High Rock NCA RMP	BLM, Winnemucca FO.
	Caliente MFP	BLM, Ely FO.
	Desert NWR CC Conservation Plan	USFWS, Desert NWR.
	Egan RMP	BLM, Ely FO.
	Elko RMP	BLM, Elko FO.
	Hawthorne Army Depot INRMP	DOD, U.S. Army, Hawthorne AD.
	Humboldt-Toiyabe NF LRMP	FS, Humboldt-Toiyabe NF.
	Carson City Field Office Consolidated Resource Management Plan.	BLM, Carson City FO.
	Lake Mead NRA GMP	NPS, Lake Mead NRA.
	Las Vegas RMP	BLM, Las Vegas FO.
	Nellis AFB Plan 126–4 INRMP	DOD, U.S. Air Force, Nellis AFB.
	Paradise-Denio MFP	BLM, Winnemucca FO.
	Schell MFP	BLM, Ely FO.
	Sonoma Gerlach MFP	BLM, Winnemucca FO.
	Tonopah RMP	BLM, Battle Mountain FO.
	Tuledad/Homecamp MFP	BLM, Surprise FO.
	Wells RMP	BLM, Elko FO.
New Mexico	Carlsbad RMP	BLM, Carlsbad FO.
	Farmington RMP	BLM, Farmington FO.
	Fort Bliss INRMP	DOD, U.S. Army, Fort Bliss.
	Mimbres RMP	BLM, Las Cruces DO.
	Rio Puerco RMP	BLM, Rio Puerco FO.
	Roswell RMP	BLM, Roswell FO.
	Sevilleta NWR Comprehensive Conservation Plan	USFWS, Sevilletta NWR.
	Socorro RMP	BLM, Socoro FO.
	White Sands RMP	BLM, Las Cruces DO.
Oregon	Andrews-Steens RMP	BLM, Andrews FO.
	Baker RMP	BLM, Baker FO.
	Brothers-Lapine RMP	BLM, Central Oregon FO, Deschutes FO.
	Ochocco NF LRMP	FS, Ochocco NF.
	Deschutes NF LRMP	FS, Deschutes NF.
	Eugene RMP	BLM, Upper Willamette FO.
	Fremont NF LRMP	FS, Winema-Fremont NFs.
	Klamath Falls RMP	BLM, Klamath Falls FO.
	Klamath NF LRMP	FS, Klamath NF.

LAND USE OR EQUIVALENT PLANS PROPOSED FOR AMENDMENT BY DESIGNATING EPACT SECTION 368 ENERGY CORRIDORS ON FEDERAL LANDS IN THE 11 WESTERN STATES [a] [b] [c]—Continued

State	Land use plan	Agency office(s)
	Lakeview RMP	BLM, Lakeview FO.
	Medford RMP	BLM, Ashland FO, Butte Falls FO, Glendale FO.
	Mt. Hood NF LRMP	FS, Mt. Hood NF.
	Roseburg RMP	BLM, South River FO, Swiftwater FO, Upper Willamette FO.
	Salem RMP	BLM, Cascades FO, Tillamook FO.
	Southeastern Oregon RMP	BLM, Jordan FO, Malheur FO.
	Three Rivers RMP	BLM, Three Rivers FO.
	Two Rivers RMP	BLM, Deschutes FO.
	Umatilla NF LRMP	FS, Umatilla NF.
	Upper Deschutes RMP	BLM, Deschutes FO.
	Winema NF LRMP	FS, Winema-Fremont NFs.
Utah	Ashley NF LRMP	FS, Ashley NF.
	Beaver RMP	BLM, Kanab FO.
	CBGA	BLM, Cedar City FO.
	Book Cliffs RMP	BLM, Vernal FO.
	Wasatch-Cache NF LRMP	FS, Wasatch-Cache NF.
	Diamond Mountain RMP	BLM, Vernal FO.
	Dixie NF LRMP	FS, Dixie NF.
	Fishlake NF LRMP	FS, Fishlake NF.
	Grand RMP	BLM, Moab FO.
	Grand Staircase-Escalante National Monument Management Plan.	BLM, Grand Staircase-Escalante NM FO.
	House Range RMP	BLM, Fillmore FO.
	Mountain Valley MFP	BLM, Richfield FO.
	Paria MFP	BLM, Kanab FO.
	Pinyon MFP	BLM, Cedar City FO.
	Pony Express RMP	BLM, Salt Lake FO.
	Price River RMP	BLM, Price FO.
	San Juan RMP	BLM, Moab FO, Monticello FO.
	St. George (Dixie) RMP	BLM, St. George FO.
	Uinta NF LRMP	FS, Uinta NF.
	Vermillion MFP	BLM, Kanab FO.
	Warm Springs RMP	BLM, Fillmore FO.
	Zion MFP	BLM, Kanab FO.
Washington	Mount Baker-Snoqualmie NF LRMP	FS, Mount Baker-Snoqualmie NF.
	Spokane RMP	BLM, Wenatchee FO.
	Wenatchee NF LRMP	FS, Wenatchee NF.
Wyoming	Ashley NF LRMP	FS, Ashley NF.
	Cody RMP	BLM, Cody FO.
	Grass Creek RMP	BLM, Worland FO.
	Great Divide RMP	BLM, Rawlins FO.
	Green River RMP	BLM, Rock Springs FO.
	Kemmerer RMP	BLM, Kemmerer FO.
	Lander RMP	BLM, Lander FO.
	Thunder Basin National Grassland LRMP	FS, Medicine Bow and Routt NF, Thunder Basin NG.
	Platte River RMP	BLM, Casper FO.
	Washakie RMP	BLM, Worland FO.

[a] AFB = Air Force Base; BLM = Bureau of Land Management; CBGA = Cedar-Beaver-Garfield-Antimony; CCCP = Complex Comprehensive Conservation Plan; DO = district office; DOD = Department of Defense; FO = field office; FS = Forest Service; GMP = General Management Plan; INRMP = Integrated Natural Resources Management Plan; LMP = Land Management Plan; LRMP = Land and Resource Management Plan; MFP = Management Framework Plan; NCA = National Conservation Area; NF = National Forest; NM = National Monument; NG = National Grassland; NPS = National Park Service; NRA = National Recreation Area; NWR = National Wildlife Refuge; RAMP= Recreation Area Management Plan; RFP= Revised Forest Plan, RMP = Resource Management Plan; USFWS = U.S. Fish and Wildlife Service.

[b] This list represents the most current plans. This list differs in some particulars from the list in the Draft PEIS, Vol. 2, which went to print prior to these changes. Since planning is dynamic and there may also be further changes in the locations of specific corridors, the Final PEIS may also include changes in this list.

[c] The PEIS identifies corridors through three national wildlife refuges, administered by the U.S. Fish and Wildlife Service (USFWS). Development on these refuges may only occur if the specific proposed project is determined to be compatible with refuge purposes and the mission of the National Wildlife Refuge System. Existing refuge Comprehensive Conservation Plan(s) may require amendment should a specific project be found compatible, and subsequent right-of-way permitting by the USFWS occur.

In addition to designating Federal energy corridors through these amendments, the Agencies would establish cooperative procedures to expedite the application process for energy projects proposed to be sited within these corridors.

Under the No Action Alternative, no Federal energy corridors would be designated pursuant to Section 368. The No Action alternative represents the status quo. Siting and development would continue, likely without coordination among the Agencies, under each agency's procedures for granting ROW. It would be incorrect to assume that the No Action Alternative signifies that there will be no groundbreaking for energy projects at some point in the future.

Neither alternative authorizes site-specific energy transport projects. The Draft PEIS does not examine the

environmental impacts of specific projects or related ROW that may or may not at some point be proposed for the Federal energy corridors. These projects would be subject to individual, project-specific NEPA review at the siting stage.

Although actual environmental impacts must inevitably await proposals before being analyzed, the Agencies are preparing a PEIS at the designation stage because they believe it is an appropriate time to examine the region-wide environmental concerns. The Agencies expect that the PEIS will greatly assist subsequent, site-specific analyses for individual project proposals by allowing the Agencies to incorporate this PEIS into those later analyses.

Availability of the Draft PEIS

The Agencies distributed copies of the Draft PEIS to appropriate members of Congress, state and local government officials in the 11 Western States, American Indian tribal governments, and other Federal agencies, groups, and interested parties. Copies of the document may be obtained online at the project Web site or by contacting DOE as provided in the **ADDRESSES** section of this notice. Copies of the Draft PEIS are also available for inspection at the Agencies' affected field office locations (see list above) within the 11 Western States and at public libraries near public meeting locations. A list of these libraries is available on the project Web site.

Issued in Washington, DC, on October 24, 2007.

Michael D. Nedd,

Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management, Department of the Interior.

Issued in Washington, DC, on October 30, 2007.

Kevin M. Kolevar,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability, Department of Energy.

[FR Doc. 07–5716 Filed 11–15–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. CP08–13–000; Docket No. PF07–3–000

Floridian Natural Gas Storage Company, LLC; Notice of Application

November 8, 2007.

Take notice that on October 31, 2007, Floridian Natural Gas Storage Company, LLC (FGS), 1000 Louisiana Street, Suite 4361, Houston, Texas 77002, filed an abbreviated application pursuant to section 7(c) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's regulations, for a certificate of public convenience and necessity to construct and operate the Floridian Natural Gas Storage Project in Martin County, Florida; a blanket certificate to perform certain routine activities and operations; and a blanket certificate to provide open access storage services, all as more fully set forth in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FGS requests authorization to: (1) Construct, operate a natural gas storage facility in Martin County, Florida; (2) a blanket certificate pursuant to Subpart G of Part 284 that will permit FGS to provide open-access firm and interruptible natural gas storage services on behalf of others in interstate commerce; (3) a blanket certificate pursuant to Subpart F Part 157 that will permit FGS to perform certain routine activities and operations; (4) authorization to provide the proposed storage services at market-based rates; and (5) approval of a *pro forma* FERC Gas Tariff, under which FGS will provide open-access gas storage services in interstate commerce.

FGS states that the project would be located on approximately 145 acres at the site of the former Florida Steel manufacturing facility, about two miles north of Indiantown in Martin County, Florida. FGS states that the project would include the initial construction of one nominal 190,000 m^3 liquified natural gas storage tank, liquefaction systems, vaporization systems and two parallel pipelines, one to receive gas and one to send out gas, both approximately four miles in length, that would connect the facility with the regional gas infrastructure, via an interconnection with Gulfstream Natural Gas System, L.L.C. and the Florida Power and Light Company 20-inch lateral that connects to Florida Gas Transmission Company's mainline system.

FGS proposes to construct the project in two phases. It is stated that upon planned commercial operation in late May 2011, Phase I of the project would make available liquefied natural gas storage capacity of 4 Bcf, with a design sendout capacity of 400 MMscf/d and a design liquefaction rate of 50 MMscf/d. It is stated that Phase 2 of the project would involve the construction of a second, identical storage tank and additional liquefaction and vaporization capacity and commercial operation is anticipated no later than March 2016, but may be advanced to such earlier date as the market may require.

FGS requests that the Commission waive the requirements of (i) section 284.7(d)—the segmentation requirement; (ii) section 284.7(e) and 284.10 which impose requirements relating to the design of rates that are not applicable to market-based rates; (iii) section 260.2 and Part 201 concerning accounting and reporting requirements which are appropriate for a cost-of-service rate structure; (iv) partial waiver of section 284.12(a)(1)(iv) to the extent it requires compliance with the electronic data interchange standards established by NAESB; (v) exemption from Order Nos. 587–G and 587–L regarding the netting and trading of imbalances; (vi) the requirements of Part 358 concerning Standards of Conduct for transmission providers; and (vii) the ''shipper must have title'' policy for off-system capacity. In addition, FGS requests that the Commission waive the requirement to file Exhibits K, L, N and O because FGS is seeking authority to charge market-based rates, and Exhibit H because FGS's customers are responsible for their own gas. Also, FGS requests that the Commission waive the requirements of section 157.6(b)(8) and 157.20(c)(3) for projected cost-of-service data in advance of a Commission determination of appropriate rate treatment and updated cost data after new facilities are placed in service; and section 157.6(a)(3)(i) concerning the filing of certain exhibits in electronic format.

Any initial questions regarding FGS's proposal in this application should be directed to Joan M. Darby, Dickstein Shapiro LLP, 1825 Eye Street, NW., Washington, DC 20006, telephone: (202) 420–2200 or e-mail: *darby@dicksteinshapiro.com* or J. Bradley Williams, Floridian Natural Gas Storage Company, LLC, 1000 Louisiana Street, Suite 4361, Houston, Texas 77002, telephone: (800) 621–6843.

On January 10, 2007, the Commission staff granted FGS's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF07–3–000 to staff activities involving the project. Now, as of the filing of this application on October 31, 2007, the NEPA Pre-Filing

Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP08–13–000, as noted in the caption of this notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit the original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: November 29, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22402 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER07–1306–000; ER07–1306–001; ER07–1306–002]

NedPower Mount Storm, LLC; Notice of Issuance of Order

November 8, 2007.

NedPower Mount Storm, LLC (NedPower) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. NedPower also requested waivers of various Commission regulations. In particular, NedPower requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by NedPower.

On November 7, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by NedPower, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is December 7, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, NedPower is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of NedPower, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of NewPower's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22395 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–37–005]

Town of Norwood, Massachusetts v. National Grid USA, New England Electric System, New England Power Company, and Massachusetts Electric Company; Notice of Filing

November 8, 2007.

Take notice that on September 27, 2007, New England Power Company filed a compliance filing pursuant to the Commission's Order issued on August 30, 2007. *Town of Norwood, Massachusetts* v. *National Grid USA,* et al., 120 FERC ¶ 61,196 (2007) (''*Order Denying Motion for Clarification*'').

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 29, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22394 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP08–60–000]

Wisconsin Public Service Corporation, Complainant, v. ANR Pipeline Company, Respondent; Notice of Complaint

November 8, 2007.

Take notice that on November 7, 2007, Wisconsin Public Service Corporation (WPSC), pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, tendered for filing a complaint against ANR Pipeline Company. WPSC states that it seeks an order from the Commission finding that ANR may not require WPSC to reduce the capacity under one particular transportation contract when it reduces certain transportation and storage entitlements under another contract as it is expressly permitted to do under section 35.4 of ANR's FERC Gas Tariff. WPSC further states that it seeks expedited treatment of its complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 28, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22393 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

November 9, 2007.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP00–70–016.

Applicants: Algonquin Gas Transmission Company.

Description: Algonquin Gas Transmission, LLC submits Original Sheet 87 et al. to FERC Gas Tariff, Fifth Revised Volume 1.

Filed Date: 11/02/2007.

Accession Number: 20071106–0038.

Comments Date: 5 p.m. Eastern Time on Wednesday, November 14, 2007.

Docket Numbers: RP99–176–143.

Applicants: Natural Gas Pipeline Co of America.

Description: Natural Gas Pipeline Company of America submits its Sixth Revised Sheet 26C et al to FERC Gas Tariff, Sixth Revised Volume 1, effective 11/02/07.

Filed Date: 11/06/2007.

Accession Number: 20071106–0199.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP06–200–038.

Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits its Original. Sheet 8D to its FERC Gas Tariff, Second Revised Volume 1, to become effective 11/7/07.

Filed Date: 11/06/2007.

Accession Number: 20071107–0108.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP06–407–007.

Applicants: Gas Transmission Northwest Corporation.

Description: Gas Transmission Northwest Corp submits Twelfth Revised Sheet 4 et al. to FERC Gas Tariff, Third Revised Volume 1-A to be effective 11/1/07.

Filed Date: 10/31/2007.

Accession Number: 20071101–0118.

Comments Date: 5 p.m. Eastern Time on Tuesday, November 13, 2007.

Docket Numbers: RP07–706–001.

Applicants: Colorado Interstate Gas Company.

Description: Colorado Interstate Gas Co submits Second Revised Sheet 380E to FERC Gas Tariff, First Revised Volume 1, effective 11/1/07.

Filed Date: 11/06/2007.

Accession Number: 20071108–0053.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP07–707–001.

Applicants: El Paso Natural Gas Company.

Description: El Paso Natural Gas Co submits First Revised Sheet 150D to its FERC Gas Tariff, Second Revised Volume 1-A, to be effective 11/1/07.

Filed Date: 11/06/2007.

Accession Number: 20071108–0052.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP08–17–001.

Applicants: Blue Lake Gas Storage Company.

Description: Blue Lake Gas Storage Company submits Substitute Second Revised Sheet 146 to FERC Gas Tariff, First Revised Volume 1 to be effective 11/1/07.

Filed Date: 11/07/2007.

Accession Number: 20071109–0001.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP08–58–000.

Applicants: Transcontinental Gas Pipe Line Corp.

Description: Transcontinental Gas Pipe Line Corporation submits its Tenth Revised Sheet 30 to its FERC Gas Tariff, Third Revised Volume 1, to become effective 12/6/07.

Filed Date: 11/06/2007.

Accession Number: 20071107–0107.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP08–59–000.

Applicants: Columbia Gas Transmission Corporation.

Description: Columbia Gas Transmission Corporation submits Twenty—Third Revised Sheet 29 et al. to FERC Gas Tariff, Second Revised Volume 1, effective 12/10/07.

Filed Date: 11/07/2007.

Accession Number: 20071108–0055.

Comments Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: RP08–61–000.

Applicants: Northwest Pipeline Corporation.

Description: Northwest Pipeline GP submits Thirty-Third Revised Sheet 5 et al. to FERC Gas Tariff, Third Revised Volume 1.

Filed Date: 11/08/2007.

Accession Number: 20071109–0079

Comments Date: 5 p.m. Eastern Time on Tuesday, November 20, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–22391 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

November 8, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–10–000.

Applicants: FPLE Rhode Island State Energy, L.P.; Rhode Island State Energy Statutory.

Description: Joint application for authorization to acquire interests in an Electric Utility Company and request for expedited action of FPLE Rhode Island State Energy, LP and Rhode Island State Energy Statutory Trust 2000.

Filed Date: 11/01/2007.

Accession Number: 20071105–0090.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: EC08–11–000.

Applicants: Noble Clinton Windpark I, LLC; Noble Ellenburg Windpark, LLC; Noble Bliss Windpark, LLC; EFS Noble Holdings, LLC.

Description: Noble Clinton Windpark I, LLC et al. submits an application for authorization for the transfer of certain membership interests under Section 203 of the Federal Power Act.

Filed Date: 11/02/2007.

Accession Number: 20071107–0155.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–11–000.

Applicants: Pedricktown Cogeneration Company, LP.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status for Pedricktown.

Filed Date: 11/05/2007.

Accession Number: 20071105–5011.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: EG08–12–000.

Applicants: McAdoo Energy Wind LLC.

Description: McAdoo Energy Wind, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/05/2007.

Accession Number: 20071107–0157.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: EG08–13–000.

Applicants: Central Power & Lime Inc.

Description: Notice of Self-Certification of Central Power & Lime, Inc. of Exempt Wholesale Generator Status.

Filed Date: 11/07/2007.

Accession Number: 20071107–5010.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 28, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–420–017.

Applicants: ProLiance Energy, LLC.

Description: ProLiance Energy, LLC submits a change in status notification and Original Sheet 1 to FERC Electric Tarrif, Substitute Revised Volume 1.

Filed Date: 11/05/2007.

Accession Number: 20071107–0117.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: ER03–428–005.

Applicants: ConocoPhillips Company.

Description: ConocoPhillips Co. submits the proposed revisions to its FERC Electric Tariff 1.

Filed Date: 10/30/2007.

Accession Number: 20071105–0149.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 20, 2007.

Docket Numbers: ER06–1382–004.

Applicants: Bluegrass Generation Company, LLC.

Description: Bluegrass Generation Company, LLC's Compliance Filing for Rate Schedule FERC No. 2.

Filed Date: 11/05/2007.

Accession Number: 20071105–5056.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: ER06–615–015.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp.'s modifications to market redesign and technology upgrade tariff.

Filed Date: 10/26/2007.

Accession Number: 20071105–0099.

Comment Date: 5 p.m. Eastern Time on Friday, November 16, 2007.

Docket Numbers: ER07–1202–001.

Applicants: JD WIND 4, LLC.

Description: Electric Refund Report (Compliance Only) of JD WIND 4, LLC.

Filed Date: 11/06/2007.

Accession Number: 20071106–5041.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER07–1208–001.

Applicants: Wind Capital Holdings, LLC.

Description: Electric Refund Report (Compliance Only) of Wind Capital Holdings, LLC.

Filed Date: 11/06/2007.

Accession Number: 20071106–5044.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER07–1332–002.

Applicants: Smoky Hills Wind Farm, LLC.

Description: Smoky Hills Wind Farm, LLC submits a Second Amendment to its Application.

Filed Date: 11/05/2007.

Accession Number: 20071106–0020.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: ER07–1406–001.

Applicants: Long Beach Peakers LLC.

Description: Long Beach Peakers, LLC submits an amendment to their application for market based rate authority and request for shortened notice and comment period.

Filed Date: 11/02/2007.

Accession Number: 20071106–0029.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–19–002.

Applicants: Energy Algorithms, LLC.

Description: Energy Algorithms LLC submits an amendment to the 10/23/07 filing of an application.

Filed Date: 11/05/2007.

Accession Number: 20071107–0115.

Comment Date: 5 p.m. Eastern Time on Friday, November 16, 2007.

Docket Numbers: ER08–49–001.

Applicants: Michigan Electric Transmission Co., LLC.

Description: Michigan Electric Transmission Co, LLC submits an errata to the 10/12/07 filing to revise certain provision of the Distribution—Transmission Interconnection Agreement with Consumers Energy Co.

Filed Date: 10/29/2007.

Accession Number: 20071105–0150.

Comment Date: 5 p.m. Eastern Time on Monday, November 19, 2007.

Docket Numbers: ER08–96–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement with DPL Energy, LLC *et al.*

Filed Date: 11/05/2007.

Accession Number: 20071106–0028.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: ER08–118–000.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Company submits a new Rate Schedule 307 between Oleander Power Project LP and Florida Municipal Power Agency.

Filed Date: 10/31/2007.

Accession Number: 20071101–0102.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Docket Numbers: ER08–135–000; ER08–136–000.

Applicants: California Independent System Operator Corporation; Pacific Gas and Electric Company.

Description: California Independent System Operator Corporation and Pacific Gas and Electric Co submit revisions to the ISO Grid Management Charge rate formula.

Filed Date: 10/31/2007.

Accession Number: 20071102–0094.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Docket Numbers: ER08–137–000.

Applicants: York Haven Power Company.

Description: York Haven Power Co submits a notice of cancellation and request and waiver of a 60-day notice period.

Filed Date: 10/31/2007.

Accession Number: 20071102–0095.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Docket Numbers: ER08–139–000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc on behalf of Georgia Power Co submits the annual informational filing for the Transmission Service Agreement with Florida Power Light & Power.

Filed Date: 10/31/2007.

Accession Number: 20071102–0122.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Docket Numbers: ER08–141–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC submits an executed Interconnection Service Agreement among PJM and York Haven Power Company *et al.*

Filed Date: 11/01/2007.

Accession Number: 20071105–0131.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–142–000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services Inc submits an informational filing to update the charges under their Open Access Transmission Tariff.

Filed Date: 11/01/2007.

Accession Number: 20071105–0132.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–143–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits two unexecuted agreements, a Restated California-Oregon Intertie Path Operating Agreement and an Operating Agreement with California Independent System Operator Corporation *et al.*

Filed Date: 11/01/2007.
Accession Number: 20071105–0133.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Docket Numbers: ER08–144–000.
Applicants: Atlantic Path 15, LLC.
Description: Atlantic Path 15, LLC submits revisions to its Transmission Owner Tariff to reflect the annual update of the Transmission Revenue Balancing Account Adjustment.
Filed Date: 11/01/2007.
Accession Number: 20071105–0147.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–145–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Co submits a Form of Agreement to Purchase Load Following Service with Edison Sault Electric Co.
Filed Date: 11/01/2007.
Accession Number: 20071105–0121.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–146–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits its Formula Rate Wholesale Sales Tariff, an initial cost-based rate, to become effective 1/1/08.
Filed Date: 11/01/2007.
Accession Number: 20071105–0130.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–147–000.
Applicants: Virginia Electric and Power Company.
Description: Virginia Electric and Power Company submits a notice of cancellation and a revised service agreement cover sheet to terminate the Mutual Operating Agreement with the Town of Enfield, NC, to become effective 1/1/08.
Filed Date: 11/01/2007.
Accession Number: 20071105–0125.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–148–000.
Applicants: Central Power & Lime Inc.
Description: Central Power & Lime, Inc submits an application for expedited Order accepting initial rate schedule, waiving regulations and granting blanket approvals.
Filed Date: 11/01/2007.
Accession Number: 20071105–0126.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–149–000.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities Services Company submits Attachment A—Letter requesting defferal of RTO Start-Up Cost and requests that FERC approve its proposed accounting treatment for associated cost recovery.
Filed Date: 11/01/2007.
Accession Number: 20071105–0127.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–150–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Company submits an amended Network Integration Transmission Service Agreement and an amended Network Operating Agreement with the City of Breda, Iowa.
Filed Date: 11/01/2007.
Accession Number: 20071105–0128.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–151–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Company submits an amended Network Integration Transmission Service Agreement and an amended Network Operating Agreement with the City of Wall Lake, IA.
Filed Date: 11/01/2007.
Accession Number: 20071105–0129.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–153–000.
Applicants: Upper Peninsula Power Company.
Description: Upper Peninsula Power Company submits an executed Confirmation Agreement for the sale of 3 MW of capacity and energy to UP Power Marketing LLC, to become effective 1/1/08.
Filed Date: 11/01/2007.
Accession Number: 20071105–0124.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–155–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Revised Sheets to the Amended and Restated Eldorado System Conveyance and Co-Tenancy Agreement among Neveda Power Company *et al.*
Filed Date: 11/01/2007.
Accession Number: 20071105–0122.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–156–000.
Applicants: Peoples Energy Services Corporation.
Description: Peoples Energy Services Corp submits a notice of cancellation and revised tariff cover sheet to terminate their First Revised Rate Schedule 1 and on 11/5/07 submit an errata to this filing.
Filed Date: 11/01/2007; 11/05/2007.
Accession Number: 20071105–0139; 20071106–0300.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–157–000.
Applicants: Union Electric Company.
Description: Union Electric Company dba AmerenUE submits amendments to its market based rate tariff Second Revised Sheet 1 et al to FERC Gas Tariff, Original Volume 1.
Filed Date: 11/01/2007.
Accession Number: 20071105–0138.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–158–000.
Applicants: New England Power Pool.
Description: New England Power Pool Participants Committee submits counterpart signature pages of the New England Power Pool Agreement dated 9/1/71 under ER08–158.
Filed Date: 11/01/2007.
Accession Number: 20071105–0137.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–160–000.
Applicants: Entergy Services, Inc.
Description: Entergy Gulf States Louisiana, LLC submits the EAI–EGS–LA, EGS–ETI and EAI–EMI 2008 Bridge Contracts.
Filed Date: 11/01/2007.
Accession Number: 20071105–0136.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–161–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits their Second Revised Rate Schedule 432, a form of service agreement for the provisions of non-power goods and services.
Filed Date: 11/01/2007.
Accession Number: 20071105–0135.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–162–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits an executed transmission service agreements for point-to-point transmission service under FERC Electric Tariff, Third Revised Volume 3.
Filed Date: 11/01/2007.
Accession Number: 20071105–0134.
Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–164–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Co submits Rate Schedule 118 and 119.
Filed Date: 11/02/2007.
Accession Number: 20071105–0141.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–165–000.

Applicants: Cabrillo Power I LLC.

Description: Cabrillo Power I, LLC submits a Notice of Termination of its First Revised Rate Schedule 2, the Reliability Must Run Agreement with California Independent System Operator Corp.

Filed Date: 11/01/2007.

Accession Number: 20071106–0091.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–169–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc and ALLETE, Inc submits proposed revisions to Attachment P of their Open Access Transmission Tariff, FERC Electric Tariff, Third Revised Volume 1.

Filed Date: 11/02/2007.

Accession Number: 20071106–0030.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–170–000.

Applicants: NM Colton Genco LLC.

Description: NM Colton Genco, LLC submits Notice of Cancellation of its Rate Schedule 1.

Filed Date: 11/02/2007.

Accession Number: 20071106–0031.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–171–000.

Applicants: NM Mid Valley Genco LLC.

Description: NM Mid Valley Genco, LLC submits Notice of Cancellation of its Rate Schedule FERC 1.

Filed Date: 11/02/2007.

Accession Number: 20071106–0032.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–172–000.

Applicants: NM Milliken Genco LLC.

Description: NM Milliken Genco, LLC submits Notice of Cancellation of its Rate Schedule 1.

Filed Date: 11/02/2007.

Accession Number: 20071106–0033.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–173–000.

Applicants: Florida Power Corporation.

Description: Florida Power Co dba Progress Energy Florida, Inc submits the Cost-Based Power Sales Agreement with the City of Williston, Florida, effective 1/1/08.

Filed Date: 11/02/2007.

Accession Number: 20071106–0013.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–174–000.

Applicants: Westar Energy, Inc.

Description: Kansas Gas and Electric Co and Westar Energy, Inc submits a Notice of Cancellation of an Electric Power Supply Agreement with the City of LaHarpe, Kansas.

Filed Date: 11/02/2007.

Accession Number: 20071106–0034.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–175–000.

Applicants: Florida Power Corporation.

Description: Florida Power Co dba Progress Energy Florida, Inc submits the Cost-Based Power Sales Agreement with the City of Quincy, Florida, effective 1/1/08.

Filed Date: 11/02/2007.

Accession Number: 20071106–0014.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–176–000.

Applicants: Florida Power Corporation.

Description: Florida Power Co dba Progress Energy Florida, Inc submits the Cost-Based Power Sales Agreement with the City of Bartow, Florida, effective 1/1/08.

Filed Date: 11/02/2007.

Accession Number: 20071106–0015.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–177–000.

Applicants: Cabrillo Power II LLC.

Description: Cabrillo Power II LLC submits its revised Reliability Must Run Agreement with California Independent System Operator for the calendar year 2008.

Filed Date: 11/01/2007.

Accession Number: 20071106–0026.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–178–000.

Applicants: Cabrillo Power I LLC.

Description: Cabrillo Power I, LLC submit Original Rate Schedule FERC 3 and FERC 4 consisting of two executed Interim Service Agreements with the California Independent System Operator Corporation.

Filed Date: 11/01/2007.

Accession Number: 20071106–0024.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–179–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc et al submits a notice of cancellation of an Electric Power Supply Agreement with the City of Arcadia, Kansas.

Filed Date: 11/02/2007.

Accession Number: 20071106–0016.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–180–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc et al submit a notice of cancellation of an Electric Power Supply Agreement with the City of Mindenmines, Missouri Kansas.

Filed Date: 11/02/2007.

Accession Number: 20071106–0017.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–181–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc et al submits a notice of cancellation of an Electric Power Supply Agreement with the City of Mulberry, Kansas.

Filed Date: 11/02/2007.

Accession Number: 20071106–0021.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–182–000.

Applicants: NSTAR Electric Company.

Description: NSTAR Electric Co submits a Reconfiguration Agreement for wholesale distribution wheeling service to Mirant Kendall, LLC.

Filed Date: 11/02/2007.

Accession Number: 20071106–0022.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–183–000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc submits the 2008 Informational Filing for Georgia Power Co's Transmission Service Agreement with Florida Power & Light Co et al.

Filed Date: 11/01/2007.

Accession Number: 20071106–0023.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–184–000.

Applicants: Indiana Michigan Power Company.

Description: Indiana Michigan Power Co submits First Revised Sheet 14 et al to Rate Schedule 112, effective 1/1/07 et al.

Filed Date: 11/02/2007.

Accession Number: 20071106–0019.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–185–000.

Applicants: Ameren Energy Marketing Company.

Description: Application of Ameren Energy Marketing Co et al to amend its Ancillary Services Rate Schedules.

Filed Date: 11/02/2007.

Accession Number: 20071105–0201.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–186–000.

Applicants: Union Electric Company.

Description: Application of Union Electric Co dba AmerenUE submits amendment to its Ancillary Services Rate Schedules.

Filed Date: 11/02/2007.

Accession Number: 20071105–0202.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–187–000.

Applicants: The United Illuminating Company.

Description: The United Illuminating Company submits proposed modifications to Schedule 20A–UI of the ISO New England Inc Transmission, Markets and Services Tariff etc.

Filed Date: 11/02/2007.

Accession Number: 20071105–0226.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–188–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits an Engineering and Procurement Agreement between PacifiCorp Transmission Services and PacifiCorp Energy.

Filed Date: 11/05/2007.

Accession Number: 20071106–0018.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007

Docket Numbers: ER08–189–000.

Applicants: ISO New England Inc.

Description: ISO New England, Inc pursuant to their Transmission, Markets and Services Tariff, FERC Electric Tariff 3 submits its capital budget for year 2008 and supporting materials.

Filed Date: 10/31/2007.

Accession Number: 20071106–0035.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–3–000.

Applicants: CMS Energy Corporation.

Description: Waiver Notification of Consumers Energy Company.

Filed Date: 11/01/2007.

Accession Number: 20071101–5094.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–22392 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12667–003]

City of Hamilton, OH; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12667–003.

c. *Date filed:* October 6, 2006.

d. *Applicant:* City of Hamilton, Ohio.

e. *Name of Project:* Meldahl Hydroelectric Project.

f. *Location:* On the Ohio River, near the City of Augusta, Bracken County, Kentucky. The existing dam is owned and operated by the U.S. Army Corps of Engineers (Corps). The project would occupy approximately 81 acres of United States lands administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael Perry, Director of Electric, City of Hamilton, Ohio, 345 High Street, Hamilton, OH 45011, (513) 785–7229.

i. *FERC Contact:* Peter Leitzke at (202) 502–6059; or e-mail at *peter.leitzke@ferc.gov.*

Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The proposed project would utilize the existing U.S. Army Corps of Engineers' Captain Anthony Meldahl Locks and Dam, and would consist of: (1) An intake approach channel; (2) an intake structure, (3) a 248-foot-long by 210-foot-wide powerhouse containing three generating units having a total installed capacity of 105 megawatts, (4) a tailrace channel; (5) a 5-mile-long, 138-kilovolt transmission line; and (6) appurtenant facilities. The City of Hamilton (Hamilton) is a municipal

entity that owns and operates an electrical system. The project would have an estimated annual generation of 489 gigawatt-hours, which would be used to serve the needs of the customers of Hamilton's electric system.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural schedule:* The Commission staff proposes to issue a single Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA. The Commission will take into consideration all comments received on the EA before taking final action on the license application. The application will be processed according to the following schedule, but revisions to the schedule may be made as appropriate:

Issue Notice of Availability of the EA: April 2008.

o. The license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22396 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12891–000]

BPUS Generation Development, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12891–000.

c. *Date filed:* July 30, 2007.

d. *Applicant:* BPUS Generation Development, LLC.

e. *Name of Project:* Braddock Lock & Dam Hydroelectric Project.

f. *Location:* Monongahela River in Allegheny County, Pennsylvania. It would use the U.S. Army Corps of Engineers' Braddock Lock & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2700.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12891–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Braddock Lock & Dam and operated in a run-of-river mode would consist of: (1) a new 85-foot long, 160-foot wide, 60-foot high concrete powerhouse; (2) a new intake channel and tailrace channel on the south side of the river opposite the lock structure; (3) two turbine/generator units with a combined installed capacity of 6.6 megawatts; (4) a new 3,300-foot above ground transmission line extending from the switchyard near the powerhouse to an interconnection point with an existing transmission line located southeast of the powerhouse; and (5) appurtenant facilities. The proposed Braddock Lock & Dam Project would have an average annual generation of 39 gigawatt-hours.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22397 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12892–000]

BPUS Generation Development, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12892–000.

c. *Date filed:* July 30, 2007.

d. *Applicant:* BPUS Generation Development, LLC.

e. *Name of Project:* Columbia Lock & Dam Hydroelectric Project.

f. *Location:* Ouachita River in Caldwell County, Louisiana. It would use the U.S. Army Corps of Engineers' Columbia Lock & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2700.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly, D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12892–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Columbia Lock & Dam and operated in a run-of-river mode would consist of: (1) A new 55-foot long, 100-foot wide, 35-foot high concrete powerhouse; (2) a new intake channel and tailrace channel on the west side of the river; (3) two turbine/generator units with a combined installed capacity of 6 megawatts; (4) a new 12,000-foot long above ground transmission line extending from the switchyard near the powerhouse to an interconnection point with an existing transmission line northwest of the powerhouse; and (5) appurtenant facilities. The proposed Columbia Lock & Dam Project would have an average annual generation of 47 gigawatt-hours.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and

reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22398 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12893–000]

BPUS Generation Development, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12893–000.

c. *Date filed:* July 30, 2007.

d. *Applicant:* BPUS Generation Development, LLC.

e. *Name of Project:* Montgomery Locks & Dam Hydroelectric Project.

f. *Location:* Ohio River in Beaver County, Pennsylvania. It would use the U.S. Army Corps of Engineers' Montgomery Locks & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2700.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12893–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Montgomery Locks & Dam and operated in a run-of-river mode would consist of: (1) A new 200-foot long, 250-foot wide, 50-foot high concrete powerhouse; (2) a new intake channel and tailrace channel on the north side of the river within an existing spillway bay opposite the lock structure; (3) three turbine/generator units with a combined installed capacity of 50 megawatts; (4) a new 1,600-foot long above ground transmission line extending from the switchyard near the

powerhouse to an interconnection point with an existing transmission line; and (5) appurtenant facilities. The proposed Montgomery Locks & Dam Project would have an average annual generation of 220 gigawatt-hours.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22399 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12894–000]

BPUS Generation Development, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12894–000.

c. *Date filed:* July 30, 2007.

d. *Applicant:* BPUS Generation Development, LLC.

e. *Name of Project:* Opekiska Lock & Dam Hydroelectric Project.

f. *Location:* Monongahela River in Monongalia County, West Virginia. It would use the U.S. Army Corps of Engineers' Opekiska Lock & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2700.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12893–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on

each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Opekiska Lock & Dam and operated in a run-of-river mode would consist of: (1) A new 45-foot long, 160-foot wide, 60-foot high concrete powerhouse; (2) a new intake channel and tailrace channel on the west side of the river opposite the lock structure; (3) one turbine/generator unit with an installed capacity of 10 megawatts; (4) a new 4,900-foot long above ground transmission line extending from the switchyard near the powerhouse to an interconnection point with an existing transmission line northwest of the powerhouse; and (5) appurtenant facilities. The proposed Opekiska Lock & Dam Project would have an average annual generation of 42 gigawatt-hours.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22400 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12895–000]

BPUS Generation Development, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12895–000.

c. *Date filed:* July 30, 2007.

d. *Applicant:* BPUS Generation Development, LLC.

e. *Name of Project:* Mississippi Lock & Dam No. 13 Hydroelectric Project.

f. *Location:* Mississippi River in Clinton County, Iowa. It would use the U.S. Army Corps of Engineers' Mississippi Lock & Dam No. 13.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2700.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12895–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Mississippi Lock & Dam No. 13 and operated in a run-of-river mode would consist of: (1) A new 125-foot long, 160-foot wide, 60-foot high concrete powerhouse; (2) a new intake channel and tailrace on the levee section of the Corps' facility opposite the existing lock structure; (3) three turbine/generator units with a combined installed capacity of 11.5 megawatts; (4) a new 6,500-foot long above ground transmission line extending from the switchyard near the powerhouse to an interconnection point with an existing transmission line west of the powerhouse; and (5) appurtenant facilities. The proposed Mississippi Lock & Dam No. 13 Project would have an average annual generation of 86 gigawatt-hours.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22401 Filed 11–15–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0269; FRL–8496–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects, EPA ICR No. 2130.03, OMB Control No. 2060–0561

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 revise and renew an existing approved Information 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 17, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0269, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by mail to EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), 725 17th Street, NW., Washington, DC 20503, *Attention:* Desk Officer for EPA.

FOR FURTHER INFORMATION CONTACT: Patty Klavon, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4476; fax number: (734) 214–4052; e-mail address: *klavon.patty@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 July 19, 2007 (72 FR 39620), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0269, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://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 *http://www.regulations.gov.*

Title: Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects (Renewal).

ICR number: EPA ICR No. 2130.03, OMB Control No. 2060–0561.

ICR status: This ICR is scheduled to expire on December 31, 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.

Abstract: Transportation conformity is required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported transportation activities are consistent with (''conform to'') the purpose of the state air quality implementation plan (SIP). Transportation activities include transportation plans, transportation improvement programs (TIPs), and federally funded or approved highway or transit projects. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or ''standards'').

Transportation conformity applies, under EPA's conformity regulations at 40 CFR part 93, subpart A, to areas that are designated nonattainment and those redesignated to attainment after 1990 (''maintenance areas'' with plans developed under Clean Air Act section 175A) for the following transportation-related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). The EPA published the original transportation conformity rule on November 24, 1993 (58 FR 62188), and subsequently published several revisions. EPA develops the conformity regulations in coordination with the Federal Highway Administration and the Federal Transit Administration.

Transportation conformity determinations are required before federal approval or funding is given to certain types of transportation planning documents as well as non-exempt highway and transit projects.[1]

EPA considered the following in renewing the existing ICR:

- Burden estimates for transportation conformity determinations in current 8-hour ozone and $PM_{2.5}$ nonattainment and maintenance areas, which made up EPA ICR 2130.02;
- Burden estimates for conformity determinations for CO, NO_2, and PM_{10}, which were previously included in the Department of Transportation's (DOT) ICR for Metropolitan and State-wide Transportation Planning (OMB Control Number 2132–0529); [2]
- Efficiencies associated with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005;
- Burden estimates for hypothetical areas that may be designated nonattainment for the revised 24-hour $PM_{2.5}$ standard, which EPA promulgated on October 17, 2006 (71 FR 61144);
- Differences in conformity resource needs in large and small metropolitan areas and isolated rural areas; and
- Additional burden associated with EPA's adequacy review process for submitted SIP motor vehicle emissions budgets that are to be used in conformity determinations.

This ICR does not include burden associated with the general development of transportation planning and air quality planning documents for meeting other federal requirements.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 5 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,

[1] Some projects are exempt from all or certain conformity requirements, see 40 CFR 93.126, 93.217, and 93.128.

[2] EPA, in consultation with DOT, concluded that it would be advantageous to join transportation conformity burden estimates for all pollutants into one ICR.

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: States and local governments.

Estimated Number of Respondents: 177.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 52,304.

Estimated Total Annual Cost: $2,873,060, which includes no capital or O&M costs.

Changes in the Estimates: There is an increase of 22,890 hours in the total estimated state and local respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects the following adjustments and program changes:

- Program change associated with transfer of DOT ICR (OMB #2132–0529) to EPA ICR 2130.03.
- Adjustments associated with the implementation of transportation conformity revisions from SAFETEA–LU.
- Reduced burden from the previous ICR, which included substantial start-up burden for areas that had never done transportation conformity prior to $PM_{2.5}$ and 8-hour ozone nonattainment designations. These areas now have experience with conformity.
- Other factors that have been updated since the existing ICR was approved.

Dated: October 8, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. 07–5712 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0299; FRL–8156–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Worker Protection Standard Training and Notification; EPA ICR No. 1759.05, OMB Control No. 2070–0148

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: ''Worker Protection Standard Training and Notification'' and identified by EPA ICR No. 1759.05 and OMB Control No. 2070–0148, is scheduled to expire on May 31, 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 15, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0299, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0299. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9072; fax number: (703) 305–5884; e-mail address: *hogue.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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 agricultural employers, including employers in farms as well as nursery, forestry, and greenhouse establishments.

Title: Worker Protection Standard Training and Notification.

ICR numbers: EPA ICR No. 1759.05, OMB Control No. 2070–0148.

ICR status: This ICR is currently scheduled to expire on May 31, 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: EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Worker Protection Standard (WPS), codified at 40 Code of Federal Regulations (CFR) part 170, established requirements to protect agricultural workers and pesticide handlers from hazards of pesticides used on farms, on forests, in nurseries, and in greenhouses. 40 CFR part 170 contains the standard and workplace practices, which are designed to reduce or eliminate exposure to pesticides and establish procedures for responding to exposure-related emergencies. The practices include prohibitions against applying pesticides in a way that would cause exposure to workers and others; a waiting period before workers can return to areas treated with pesticides (restricted entry interval); basic safety training (and voluntary training verification) and posting of information about pesticide hazards, as well as pesticide application information; arrangements for the supply of soap, water, and towels in case of pesticide exposure; and provisions for emergency assistance. The training verification program facilitates compliance with the training requirements by providing a voluntary method for employers to verify that the required safety information has been provided to workers and handlers.

This renewal ICR estimates the third party response burden from complying with the Worker Protection Standard requirements. Information is exchanged between agricultural employers and employees at farm, forest, nursery, and greenhouse establishments to ensure worker safety. No information is collected by the Agency under this ICR. Responses to this ICR are mandatory. The authority for this information collection is provided under section 25 of FIFRA and 40 CFR part 170.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.15 hours (about 9 minutes) per response, ranging from two minutes to 45 minutes for the various types of responses. 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: 3,245,393.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 3.

Estimated total annual burden hours: 2,293,364 hours.

Estimated total annual costs: $102,612,181.

IV. Are There Changes in the Estimates from the Last Approval?

There is no change in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

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 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. E7–22368 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8495–8]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) response to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2147.03; Pesticide Registration Fee Waivers; was approved 10/10/2007; OMB Number 2070–0167; expires 10/31/2010.

EPA ICR Number 1204.10; Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2); in 40 CFR part 159, subpart D; was approved 10/10/2007; OMB Number 2070–0039; expires 10/31/2010.

EPA ICR Number 1984.03; NESHAP for Plywood and Composite Wood Products (Renewal); in 40 CFR part 63, subpart DDDD; was approved 10/15/2007; OMB Number 2060–0552; expires 10/31/2010.

EPA ICR Number 1071.09; NSPS for Stationary Gas Turbines (Renewal); in 40 CFR part 60, subpart GG; was approved 10/18/2007; OMB Number 2060–0028; expires 10/31/2010.

EPA ICR Number 2045.03; NESHAP for Automobile and Light-duty Truck Surface Coating (Renewal); in 40 CFR part 63, subpart IIII; was approved 10/22/2007; OMB Number 2060–0550; expires 10/31/2010.

EPA ICR Number 1249.08; Recordkeeping Requirements for Certified Applicators Using 1080 Collars for Livestock Protection; was approved 11/05/2007; OMB Number 2070–0074; expires 11/30/2010.

EPA ICR Number 0276.13; Application for Experimental Use Permit (EUP) to Ship and Use a Pesticide for Experimental Purposes Only; in 40 CFR part 172; was approved 11/05/2007; OMB Number 2070–0040; expires 11/30/2010.

EPA ICR Number 1214.07; Pesticide Product Registration Maintenance Fee; was approved 11/05/2007; OMB Number 2070–0100; expires 11/30/2010.

Short Term Approval

EPA ICR Number 1572.06; Hazardous Waste Specific Unit Requirements and Special Waste Processes and Types (Renewal); in 40 CFR parts 261, 264, 265 and 266; was granted a short term extension by OMB on 10/30/2007; OMB Number 2050–0050; expires 11/30/2007.

Withdrawn and Continue

EPA ICR Number 2185.02; State Review Framework (Revision) was withdrawn by Agency on 11/02/2007 and existing program approval continues through 11/30/2008.

Dated: November 8, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22442 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0358; FRL–8496–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Responsible Appliance Disposal Program; EPA ICR No. 2254.01, OMB Control No. 2060–NEW

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new 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 17, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0358, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *a-and-r-docket@epamail.epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air Docket, 1200 Pennsylvania Avenue, NW., Mailcode 2822T, Washington, DC 20460, and (2) OMB by *mail to:* Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Evelyn Swain, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Mailcode 6205J, Washington, DC 20460; *telephone number:* (202) 343–9956; *facsimile number:* (202) 343–2362; *e-mail address: swain.evelyn@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 August 14, 2007 (72 FR 45423), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0358, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper,

will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Responsible Appliance Disposal Program.

ICR Numbers: EPA ICR No. 2254.01, OMB Control No. 2060–NEW.

ICR Status: This ICR is for a new information collection activity. 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, and 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 Paperwork Reduction Act requires the information found in this Information Collection Request, to assess the burden (in hours and dollars) of the reporting and record keeping necessary to maintain the Responsible Appliance Disposal (RAD) Program. The RAD Program, developed in 2006, is a voluntary, non-regulatory program that promotes the proper handling of refrigerated household appliances at the time of their disposal. EPA is partnering with utilities, municipalities, retailers, manufacturers, and universities to promote the proper disposal of older household appliances, namely refrigerators, freezers, window air conditioning units, and dehumidifiers, in order to prevent emissions of refrigerants and foam-blowing agents that are ozone depleting substances and/or greenhouse gases. The Program is also expected to save landfill space, save energy used by older appliances, lead to the recovery of valuable materials for use in making new products (e.g., metals, plastics, glass), and prevent the release of hazardous substances—including PCBs, mercury, and used oil.

Utilities, municipalities, retailers, manufacturers, and universities can participate in the program for guidance on proper appliance disposal practices and recognition of their efforts. Participation in the program begins with completion of a Partnership Agreement that outlines responsibilities of the RAD Program. This Partnership Agreement reflects a voluntary agreement between a utility, municipality, retailer, manufacturer, or university and EPA. By joining the program, a Partner agrees to complete an annual reporting form identifying the appliances handled and the fates of their components. If the reporting form is completed electronically, it provides feedback for the user on the gross impact of their program on the environment, energy savings, and consumer savings. This agreement can be terminated by either Party 20 days after the receipt of written notice by the other Party with no penalties or continuing obligations.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Utilities, municipalities, retailers, manufacturers, and universities.

Estimated Number of Respondents: 50.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 302 hours.

Estimated Total Annual Cost: $26,283 in labor costs and no annualized capital or O&M costs.

Dated: November 8, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22443 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0047; FRL–8496–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Onshore Natural Gas Processing Plants (Renewal); EPA ICR Number 1086.08, OMB Control Number 2060–0120

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (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 collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before December 17, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0047, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB at: 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: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@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 March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0047, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://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: NSPS for Onshore Natural Gas Processing Plants (Renewal).

ICR Numbers: EPA ICR Number 1086.08, OMB Control Number 2060–0120.

ICR Status: This ICR is scheduled to expire on December 31, 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, and 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 New Source Performance Standards (NSPS) for Equipment Leaks of Volatile Organic Compounds (VOC) from Onshore Natural Gas Processing Plants, published at 40 CFR part 60, subpart KKK, were proposed on January 20, 1984, and promulgated on June 24, 1985. These standards apply to the following affected facilities located at onshore natural gas processing plants: compressors in VOC service or in wet gas service, and the group of all equipment (except compressors) within a process unit. Affected facilities commenced construction, modification or reconstruction after the date of proposal.

The NSPS for Onshore Natural Gas Processing: SO_2 Emissions, published at 40 CFR part 60, subpart LLL, were proposed on January 20, 1984 and promulgated on October 1, 1985. These standards apply to the following affected facilities located at onshore natural gas processing plants: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit. Affected facilities commenced construction, modification or reconstruction after the date of proposal.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance and are required of all sources subject to NSPS. Owners or operators of affected facilities must submit notifications of any construction/reconstruction, modification, actual date of startup, demonstration of a continuous monitoring system, and date of a performance test. Note that the use of control devices and continuous monitoring is not required by subpart KKK, but is an option for compliance.

Owners or operators of affected facilities must submit semiannual reports and performance test results. Note that subpart LLL requires semiannual reporting of excess emissions. Owners or operators subject to subpart KKK must keep various records, including records of leak detection and repair, records of compliance tests, and records of pumps and valves that are exempted from certain monitoring requirements. Owners or operators subject to subpart LLL must keep records of various calculations and measurements.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subparts KKK and LLL, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 91 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Onshore natural gas processing plants.

Estimated Number of Respondents: 563.

Frequency of Response: On occasion, initially, and semiannually.

Estimated Total Annual Hour Burden: 149,180.

Estimated Total Annual Cost: $9,857,058, which includes $219,000 annualized Capital Startup costs, $119,700 annualized Operating and Maintenance costs (O&M) and $9,518,358 annualized Labor costs.

Changes in the Estimates: There is no significant change in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three

years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent.

There is, however, a small adjustment in the labor hour estimate. The previous ICR shows a total of 149,174 annual hours. This renewal ICR shows a total of 149,180 annual hours. The small labor hour increase of six hours was caused by a mathematical error in the previous ICR.

Dated: November 8, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22453 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0048; FRL–8496–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Beryllium (Renewal); EPA ICR Number 0193.09, OMB Control Number 2060–0092

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (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 collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before December 17, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0048, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: 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: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@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 March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0048, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://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: NESHAP for Beryllium (Renewal).

ICR Numbers: EPA ICR Number 0193.09, OMB Control Number 2060–0092.

ICR Status: This ICR is scheduled to expire on December 31, 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, and 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 National Emission Standards for Hazardous Air Pollutants (NESHAP), were proposed on December 7, 1971 (36 *FR* 23939) and promulgated on April 6, 1973 (38 *FR* 8826). This standard applies to all extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste. The standard also applies to machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent beryllium by weight. All sources known to have caused, or have the potential to cause, dangerous levels of beryllium in the ambient air are covered by the Beryllium NESHAP. This information is being collected to ensure compliance with 40 CFR part 61, subpart C.

There are approximately 236 existing sources subject to this rule. Of the total number of existing sources, we have assumed that approximately 10 sources (i.e., respondents) have elected to comply with an alternative ambient air quality limit by operating a continuous monitor in the vicinity of the affected facility. The monitoring requirements for these facilities provide information on ambient air quality and ensure that locally, the airborne beryllium concentration does not exceed 0.01 micrograms/m^3. These sources that are meeting the rule requirements by means of ambient monitoring are required to submit a monthly report of all measured concentrations to the Administrator. The remaining 226 sources have elected to comply with the rule by conducting a one-time-only stack test to determine beryllium emission levels. We have assumed that 10 percent of the 226 sources (or 23 respondents) complying with the emission limit standard will engage in an operational change at their facilities that could potentially increase beryllium emissions, and would be required to repeat the stack test to determine the beryllium emission

limits. Consequently these sources will have recordkeeping and reporting requirements associated with the stack test. We have assumed that no additional sources are expected to become subject to the standard in the next three years. Therefore, there are 33 respondents for the purpose of determining the recordkeeping and reporting burden associated with this rule.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 61, subpart C, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Beryllium Facilities.

Estimated Number of Respondents: 33.

Frequency of Response: Monthly and on occasion.

Estimated Total Annual Hour Burden: 2,627.

Estimated Total Annual Cost: $201,160, which is comprised of $0 annualized Capital Startup costs and $35,000 Operation and Maintenance (O&M) costs and $166,160 annualized Labor Costs.

Change in Estimates: There is no significant change in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: November 8, 2007.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E7–22506 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8496–9]

Notice of Extension of Public Comment Period for the External Review Draft of a ''Framework for Determining a Mutagenic Mode of Action for Carcinogenicity: Using EPA's 2005 Cancer Guidelines and Supplemental Guidance for Assessing Susceptibility From Early-Life Exposure to Carcinogens''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period.

SUMMARY: On September 27, 2007, the U.S. Environmental Protection Agency (EPA) released for public comment the External Review Draft of the ''Framework for Determining a Mutagenic Mode of Action for Carcinogenicity: Using EPA's 2005 *Cancer Guidelines and Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens*'' (or *Framework*). At that time, a 60-day public comment period was announced. This notice announces a 30-day extension of the public comment period; the public comment period will end 90 days from September 27, 2007, the date of the original **Federal Register** Notice (72 FR 54910). Visit *http://www.epa.gov/fedrgstr/EPA-GENERAL/2007/September/Day-27/g19119.pdf*) for further information. Members of the public may obtain the draft interim guidance from *http://www.regulations.gov;* or *http://www.epa.gov/osa/mmoaframework*; or consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The draft document is available electronically through the EPA Office of the Science Advisor's Web site at: *http://www.epa.gov/osa/mmoaframework*.

FOR FURTHER INFORMATION CONTACT: For more information, contact Resha Putzrath, Ph.D., Office of the Science Advisor, Mail Code 8105R, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–3229; fax number: (202) 564–2070, e-mail: *putzrath.resha@epa.gov*.

Dated: November 8, 2007.

George M. Gray,

EPA Science Advisor.

[FR Doc. E7–22508 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6693–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 6, 2007 (72 FR 17156).

Draft EISs

EIS No. 20070218, ERP No. D–FHW–K40263–CA, Interstate 405 (San Diego Freeway) Sepulveda Pass Widening Project, From Interstate 10 to US–101 in the City of Los Angeles, Los Angeles County, CA.

Summary: EPA expressed environmental concerns about water quality and air quality impacts. EPA recommends additional best management practices and construction mitigation measures. Rating EC2.

EIS No. 20070275, ERP No. D–FHW–K59007–CA, Eureka-Arcata Route 101

Corridor Improvement Project, Proposed Roadway Improvements on Route 101 between the Eureka Slough Bridge and 11th St. Overcrossing in Arcata, Humbolt County, CA.

Summary: EPA expressed environmental concerns about impacts to air quality and noise. EPA encourages continued interagency coordination to mitigate impacts to wetlands and cumulative impacts. Rating EC2.

EIS No. 20070323, ERP No. D–FHW–J40177–CO, US–36 Corridor, Multi-Modal Transportation Improvements between I–25 in Adams County and Foothills Parkway/Table Mesa Drive in Boulder, Adams, Denver, Broomfield, Boulder and Jefferson Counties, CO.

Summary: EPA expressed environmental concerns about the wetlands impacts and impacts to the Preble's meadow jumping mouse and Ute ladies'-tresses habitat. Rating EC1.

EIS No. 20070361, ERP No. D–FHW–K50015–CA, Schuyler Heim Bridge Replacement and SR–47 Expressway Improvement Project, from Alameda Street to Pacific Coast Highway, Funding, U.S. Coast Guard Bridge Permit, U.S. Army COE Section 10 and 404 Permits, Ports of Long Beach and Los Angeles, Los Angeles County, CA.

Summary: EPA expressed environmental concerns about the cumulative air and water quality impacts and their effects on low income and minority communities. EPA recommends consistency with the Clean Air Action Plan, mitigation to reduce construction and mobile source air toxics emissions, and additional best management practices to contain resuspended sediments. Rating EC2.

EIS No. 20070370, ERP No. D–AFS–K65333–00, Sage Steppe Ecosystem Restoration Strategy, Implementation, Modoc National Forest, Modoc, Lassen, Shasta Counties, CA and Washoe County, NV.

Summary: EPA expressed environmental concerns about the scope of analysis in the document and the project's impact on endangered species, water quality, wetlands, and air quality. Rating EC2.

EIS No. 20070391, ERP No. D–NRC–G09805–OK, Sequoyah Fuels Corporation Site, Proposed Reclamation Activities for the 243-hectare (600 acre) Site, (NUREG–1888) in Gore, OK.

Summary: EPA does not object to the proposed action. Rating LO.

EIS No. 20070392, ERP No. D–AFS–J65491–MT, Bozeman Municipal Watershed Project, To Implement Fuel Reduction Activities, Bozeman Ranger District, Gallatin National Forest, City of Bozeman Municipal Watershed, Gallatin County, MT.

Summary: EPA expressed environmental concerns about potential effects to water quality and other resources from the proposed action. EPA requested additional information on road and stream crossings and provided suggestions for additional mitigation measures and monitoring. Rating EC2.

Final EISs

EIS No. 20070358, ERP No. F–AFS–K65325–CA, Turntable Bay Marina Master Development Project, Implementation, Shasta-Trinity National Forest, Special Use Permit, Shasta and Trinity Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20070413, ERP No. F–AFS–J65467–MT, Little Belt-Castle-North Half Crazy Mountains Travel Management Plan, To Change the Management of Motorized and Non-motorized Travel on the Road, Trails, and Areas within, Belt Creek, Judith, Musselshell, and White Sulphur Springs Ranger Districts, Lewis and Clark National Forest, Cascade, Judith Basin, Meagher, Wheatland, Sweetgrass and Park Counties, MT.

Summary: EPA expressed environmental concerns about potential effects to water quality, fisheries, and wildlife.

EIS No. 20070414, ERP No. F–AFS–J65445–MT, Rocky Mountain Ranger District Travel Management Plan, Proposes to Change the Management of Motorized and Non-Motorized Travel, Lewis and Clark National Forest, Glacier, Pondera, Teton and Lewis and Clark Counties, MT.

Summary: EPA expressed environmental concerns about potential effects to water quality, fisheries, and wildlife, based on the uncertainty of receiving adequate funding for road and trail maintenance, road decommissioning, and enforcement of travel plan restrictions.

EIS No. 20070069, ERP No. FA–FHW–D40118–00, Appalachian Corridor H Project, Construction of a 9-mile Long Segment between the Termini of Parsons and Davis, Updated Information the Parsons-to-Davis Project, Funding and U.S. Army COE Section 404 Permit Issuance, Tucker County, WV.

Summary: EPA continues to have environmental concerns about impacts to wetlands and stream channels. EPA recommends that WVDOH develop ways to further avoid and minimize impacts during the construction phase of the project.

Dated: November 13, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–22498 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6692–9]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements.

Filed 11/05/2007 through 11/09/2007.

Pursuant to 40 CFR 1506.9.

EIS No. 20070480, Draft EIS, AFS, UT, Pockets Resource Management Project, Proposes to Salvage Dead and Dying Spruce/Fir, Regenerate Aspen, and Manage Travel, Escalate Ranger District, Dixie National Forest, Garfield County, UT, *Comment Period Ends:* 12/31/2007, *Contact:* Georgina Lampman 435–826–5401.

EIS No. 20070481, Draft Supplement, COE, NC, PCS Phosphate Mine Continuation, New Information on Additional Alternative ''L'' and ''M'', Proposes to Expand its Existing Open Pit Phosphate Mining Operation into a 3,412 Acre Tract, Pamlico River and South Creek, near Aurora, Beaufort County, NC, *Comment Period Ends:* 12/31/2007, *Contact:* Tom Walker 828–271–7980 Ext 222.

EIS No. 20070482, Draft EIS, FHW, UT, UT–108 Transportation Improvement Project, To Improve Local and Regional Mobility from UT–108 between UT–127 (Antelope Drive) to UT–126 (1900 West) Located in Syracuse, West Point and Clinton in Dave County, and Roy and West Haven in Weber County, UT.P≤ *Comment Period Ends:* 01/05/2008, *Contact:* Douglas Atkin 801–963–0182.

EIS No. 20070483, Draft Supplement, FHW, TN, Kirby Parkway Project, Construction from Macon Road to Walnut Grove Road, U.S. Army COE Section 401 and 404 Permits, Shelby County, TN, *Comment Period Ends:* 12/31/2007, *Contact:* Laurie S. Leffler 615–781–5770.

EIS No. 20070484, Draft EIS, FHW, 00, Interstate-94, I–43, I–894, and WI–119 (Airport Spur) I–94/USH 41 Interchange to Howard Avenue, To Address Freeway System's Deteriorated Conditions, Funding and U.S. Army COE Section 404 Permit, Kenosha, Racine and Milwaukee Counties, WI and Lake County, IL, *Comment Period Ends:* 12/31/2007, *Contact:* David Scott 608–829–7522.

EIS No. 20070485, Final EIS, AFS, CA, Kirkwood Mountain Resort, Proposed 2003 Mountain Master Development Plan, Implementation, Eldorado National Forest, Amador, Alpine and EL Dorado Counties, CA, *Wait Period Ends:* 12/17/2007, *Contact:* Sue Rodman 530–622–5061.

EIS No. 20070486, Final Supplement, COE, 00, Yazoo Basin Reformulation Study, Supplement No.1 to the 1982 Yazoo Area Pump Project, Flood Control, Mississippi River and Tributaries, Yazoo Basin, MS and LA, *Wait Period Ends:* 01/22/2008, *Contact:* Marvin Cannon 601–631–5437.

EIS No. 20070487, Second Final Supplement, COE, FL, Lake Okeechobee Regulation Schedule Study, New Updated Information, Evaluation of Three New Alternatives on Operational Changes to the Current Water Control Plan, Lake Okeechobee and the Everglades Agricultural Area, Lake Okeechobee, Glades, Okeechobee Hendry, Palm Beach and Martin Counties, FL, *Wait Period Ends:* 12/17/2007, *Contact:* Yvonne L. Haberer 904–232–1701.

EIS No. 20070488, Draft EIS, DOE, 00, PROGRAMMATIC—Designation of Energy Corridors in 11 Western States, Preferred Location of Future Oil, Gas, and Hydrogen Pipelines and Electricity Transmission and Distribution Facilities on Federal Land, AZ, CA, CO, ID, MT, NV, NM, UT, WA and WY, *Comment Period Ends:* 02/14/2008, *Contact:* LaVerne Kyriss 202–586–1056.

EIS No. 20070489, Final EIS, DOE, 00, FutureGen Project, Planning, Design, Construction and Operation of a Coal Fueled Electric Power and Hydrogen Gas Production Plant, Four Alternative Sites: Mattoon, IL, Tuscola, IL, Jewett, TX, and Odessa, TX, *Wait Period Ends:* 12/17/2007, *Contact:* Mark McKoy 304–285–4426.

EIS No. 20070490, Final Supplement, COE, CO, Rueter-Hess Reservoir Expansion Project , Enlarges Reservoir to Provide Storage of Denver Basin Groundwater for Meeting Peak Municipal Water Supply, U.S. Army COE Section 404 Permit, Town of Parker, Douglas County, CO, *Wait Period Ends:* 12/17/2007, *Contact:* Rodney J. Schwartz 402–221–4143.

EIS No. 20070491, Final EIS, AFS, CO, Bull Mountain Natural Gas Pipeline, Construct, Operate and Maintain Natural Gas Pipeline, Issuance of Right-of-Way Grant and Temporary Use Area Permits, Gunnison, Delta, Mesa, Garfield Counties, CO, *Wait Period Ends:* 12/17/2007, *Contact:* Niccole Mortensen 970–874–6616.

EIS No. 20070492, Draft EIS, DHS, 00, Rio Grande Valley Sector Project, Construction, Maintenance, and Operation of Tactical Infrastructure, U.S./Mexico International Border in Southernmost Portions of Starr, Hidalgo and Cameron Counties, TX, *Comment Period Ends:* 12/31/2007, *Contact:* Gregory Giddens 202–344–2450.

EIS No. 20070493, Final EIS, AFS, ID, Sun Valley Resort (Bald Mountain) 2005 Master Plan—Phase I Project, Implementation, Special-Use-Permits, Sawtooth National Forest, Blaine County, ID, *Wait Period Ends:* 12/17/2007, *Contact:* Carol Brown 208–727–5000.

EIS No. 20070494, Legislative Final EIS, COE, LA, Mississippi River—Gulf Outlet (MRGO) Deep-Draft Navigation De-Authorization Study, Implementation, St. Bernard Parish, LA, *Wait Period Ends:* 12/17/2007, *Contact:* Sean Mickal 504–862–2319.

Amended Notices

EIS No. 20070373, Draft EIS, RUS, WY, WITHDRAWN—Dry Fork Station and Hughes Transmission Line, Construct Electric Generating Facilities, Campbell and Sheridan Counties, WY, *Comment Period Ends:* 10/15/2007, *Contact:* Richard Fristik 202–720–5093. Revision of FR Published 08/31/2007: Officially Withdrawn by the Preparing Agency.

EIS No. 20070385, Draft EIS, FHW, 00, Peace Bridge Expansion Project, Capacity Improvements to the Peace Bridge, Plazas and Connecting Roadways, U.S. Coast Guard Bridge Permit, U.S. Army COE Section 10 and 404 Permits. City of Buffalo, Erie County, NY and Town of Fort Erie, Ontario, Canada, *Comment Period Ends:* 11/30/2007, *Contact:* Amy Jackson-Grove 518–431–4131. *Revision of FR Notice Published 09/14/2007:* Extending Comment Period from 11/13/2007 to 11/30/2007.

EIS No. 20070469, Draft EIS, NOA, 00, Snapper Grouper Amendment 15B, Fishery Management Plan, To Analyze the Effects of Updating Management Reference Points for Golden Tilefish (Lopholatilus chamaeleonticeps); Define Allocations for Snowy Grouper (Epinephelus niveatus) and Red Porgy (Pagrus pagrus), NC, SC, FL and GA, *Comment Period Ends:* 01/11/2008, *Contact:* Dr. Roy E. Crabtree 727–824–5301. Revision to FR Notice Published: 11/09/2007: Correction to Title.

Dated: November 13, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 07–5713 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8495–6]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Science Advisory Board; Panel for the Review of EPA's 2007 Report on the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Panel for the Review of EPA's 2007 Report on the Environment. The teleconference is being held to discuss the Panel's draft advisory report.

DATES: The teleconference will be held on December 10, 2007 from 1 p.m. to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public teleconference may contact. Dr. Thomas Armitage, Designated Federal Officer (DFO). Dr. Armitage may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail: (202) 343–9995; fax (202) 233–0643; or e-mail at: *armitage.thomas@epa.gov*. General information about the EPA SAB, as well as any updates concerning the teleconference announced in this notice, may be found in the SAB Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB Panel for the Review of EPA's 2007 Report on the Environment will hold a public teleconference to discuss a draft advisory report on EPA's *Report on the Environment 2007: Science Report*. The

SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: In 2003, EPA issued a draft Report on the Environment describing the status of and trends in the environment and human health. The draft 2003 Report on the Environment was reviewed by the SAB (see *http://www.epa.gov/sab/pdf/sab_05_004.pdf*). EPA used advice received from the SAB and comments from stakeholders to develop an improved and updated draft Report on the Environment 2007. The Report on the Environment 2007 consists of: a Science Report (ROE 2007 Science Report) containing detailed scientific and technical information, a Highlights Document written for concerned citizens, and an electronic document facilitating access to material in the reports. The ROE 2007 Science Report asks key questions about the current status of, and trends in, the condition of the environment and human health. These questions are intended to be relevant to EPA's current regulatory and programmatic activities and mission, and they have been answered using a suite of environmental and human health indicators.

EPA's Office of Research and Development requested that the SAB review the ROE 2007 Science Report. In response to EPA's request, the SAB Staff Office formed the Panel for the Review of EPA's 2007 Report on the Environment. Background information on the Panel formation process was provided in a **Federal Register** notice published on May 25, 2006 (71 FR 30138). The Panel has previously held two teleconferences and a face-to-face meeting (72 FR 29498; 72 FR 56342). Information about the SAB Panel for the Review of EPA's 2007 Report on the Environment is available on the SAB Web site at: *http://www.epa.gov/sab*.

Availability of Meeting Materials: The draft *Report on the Environment 2007: Science Report* reviewed by the SAB Panel is available on the following EPA Office of Research and Development Web site: *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=140917*. The agenda and other material for the upcoming public teleconference will be posted on the SAB Web site at: *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Dr. Armitage, DFO, in writing (preferably via e-mail) at the contact information noted above, no later than December 3, 2007 to be placed on a list of public speakers for the teleconference. *Written Statements:* Written statements should be received in the SAB Staff Office by December 3, 2007 so that the information may be made available to the SAB Panel members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Armitage at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: November 9, 2007.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–22452 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0436; FRL–8151–2]

Oxydemeton-Methyl; Final Determination to Terminate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 8, 2007, EPA proposed to terminate the Special Review of oxydemeton-methyl (ODM) because the risks that were the basis of the Special Review are no longer of concern. The Agency offered an opportunity to provide comment to the proposal. The Agency received no substantive comments in response to the proposal and EPA is announcing its final determination to terminate the Special Review of ODM.

FOR FURTHER INFORMATION CONTACT: Richard P. Dumas, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; e-mail address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you as a member of the general public or a stakeholder such as environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0436. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

On October 5, 1987, EPA initiated a Special Review of oxydemeton-methyl (ODM) because of its potential to adversely affect reproduction of workers who mix, load, and apply products containing ODM. The Agency's

concerns regarding reproductive effects were based primarily on the results of a two-generation rat reproduction study and interim progress reports from an ongoing male rat reproductive toxicity study. Observed reproductive effects were decreased parental body weight, parental testes weight and fertility index, vacuolation of the corpus epididymus, decreased litter size, decreased pup weight and increased pup mortality.

Since the initiation of the Special Review, additional data and more comprehensive reviews of potential risks associated with ODM exposure have been completed, including those described in the 2002 Interim Reregistration Eligibility Decision (IRED) for ODM. In addition, during the reregistration process EPA conducted an intensive and public review of whether or not ODM registrations meet the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) standard for registration. In the 2002 IRED and subsequent label amendments, the Agency addressed the occupational risk concerns, including risk associated with potential reproductive effects. There continues to be evidence of reproductive effects; however, there is no evidence that these effects inhibit the ability of organisms to reproduce. Similarly, further data and analysis have addressed the concern for heritable effects. With the label amendments that have been made since the initiation of Special Review, ODM exposure is expected to be below the levels where any reproductive effects occur. Because the risks that were the basis of the Special Review are no longer of concern, the Agency is proposing to terminate the Special Review of ODM.

The final risk management decision regarding the risk to workers exposed to ODM was completed with the 2002 IRED. A detailed description of the rationale and supporting documents can be found in *http://www.regulations.gov* under EPA–HQ–OPP–2005–0281. As described above and in the 2002 IRED, concerns regarding reproductive effects were addressed under FIFRA and no further action is required at this time. As such, on August 8, 2007, EPA announced its proposed decision to terminate the Special Review of ODM. The Agency received one comment to that notice. The commenter offered no substantive information to alter EPA's understanding of ODM risks. This notice announces EPA's final determination to terminate the Special Review of ODM.

B. What is the Agency's Authority for Taking this Action?

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing ''unreasonable adverse effects on the environment,'' (FIFRA section 3(c)(5)). The term ''unreasonable adverse effects on the environment'' is defined in FIFRA section 2(bb) as ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.'' The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR), is described in 40 CFR part 154, published in the **Federal Register** of November 25, 1985 (50 FR 49015). The purpose of this process is to determine whether some or all registrations of a particular active ingredient or ingredients meet the FIFRA standard for registration, or whether amendment of the terms and conditions of registration or cancellation of portions or all of the registrations is appropriate.

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR 154.21 announcing that the Agency is considering commencing a Special Review. Registrants and applicants for registration are allowed 30 days from receipt of the notification to comment on the Agency's proposal to commence a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will initiate a Special Review, 40 CFR 154.23(c) requires the Administrator to publish a Notice of Special Review in the **Federal Register**. To conclude the Special Review after a Special Review has been initiated, 40 CFR 154.31 requires the Administrator to first publish a Notice of Preliminary Determination in the **Federal Register**.

That regulation requires the Administrator to respond to all significant comments received on the Notice of Special Review and, among other things, make a preliminary determination of whether any of the applicable risk criteria have been satisfied. Finally, after receipt and evaluation of comments on the Notice of Preliminary Determination, 40 CFR 154.33 requires that the Administrator publish in the **Federal Register** a Notice of Final Determination, including the reasons for the determination. This Notice is being issued pursuant to 40 CFR 154.33.

List of Subjects

Environmental protection, Pesticides, Pests.

Dated: November 8, 2007.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–22362 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0435; FRL–8151–3]

Ethyl Parathion; Final Determination Not to Initiate Special Review and Tributyltin Antifoulants; Final Determination to Terminate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's decision not to initiate a Special Review of Ethyl Parathion and its decision to terminate the Special Review of Tributyltin (TBT) used in antifouling paints. The Agency has taken these actions because all pesticide registrations of ethyl parathion and all TBT antifouling paints are canceled. These decisions were proposed in the **Federal Register** on August 8, 2007 and the Agency received no comments in response to these proposed decisions.

FOR FURTHER INFORMATION CONTACT: Richard P. Dumas, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; e-mail address: *dumas.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you as a member of the general public or a stakeholder such as environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0435. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

1. *Ethyl parathion.* On May 16, 1986, as required by 40 CFR 154.21, EPA provided the registrants a preliminary notification that EPA was considering initiating a Special Review of Ethyl Parathion. The basis for the concern was acute toxicity to humans from oral and dermal exposure and to birds from dietary and dermal exposures. In 1991, to address the human health concerns, the registrants voluntarily canceled many uses of ethyl parathion and imposed several mitigation measures for the remaining nine uses.

In 2002, all products being manufactured for sale in the U.S. were voluntarily canceled. However, four ethyl parathion product registrations held by Drexel Chemical Company that had not been manufactured for several years were not included in the 2002 cancellation actions. On March 16, 2005, Drexel Chemical Company requested voluntary cancellation for the four registrations. The cancellation of the four remaining ethyl parathion product registrations was effective on December 13, 2006.

On August 8, 2007, EPA proposed its decision not to initiate a Special Review of Ethyl Parathion. The proposal was made because there are no longer any pesticide products registered containing ethyl parathion, and thus the risk concerns have been mitigated. The public was provided an opportunity to comment on the proposal and no comments were received. Pursuant to 40 CFR 154.25, this notice announces the Agency's final determination not to initiate a Special Review of Ethyl Parathion.

2. *Tribuyltin antifoulants.* The Special Review of Tribuyltin Antifoulants was initiated on January 8, 1986. Studies indicated toxicity to non-target marine and fresh water organisms at low levels, in some cases, at the parts per trillion level. On October 4, 1988, EPA partially concluded the Special Review of Tributyltin Antifoulants (53 FR 39022). The Special Review was concluded except for the issue of the release rates of TBT from antifoulant paints into the environment. Since that time, all antifouling paint products containing TBT have been voluntarily canceled. The last cancellation was effective on December 1, 2005. Under 40 CFR 154.31, the Administrator must provide his rationale for terminating a Special Review and provide an opportunity for comment. On August 8, 2007 EPA proposed to terminate the Special Review of Tributytin Anitfoulants because there are no remaining pesticide registrations for the antifouling paint use. The Agency received no comments in response to this proposal. Pursuant to 40 CFR 154.33, this notice announces the Agency's final determination to terminate the Special Review of Tributytin Antifoulants.

B. What is the Agency's Authority for Taking this Action?

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing ''unreasonable adverse effects on the environment,'' FIFRA section 3(c)(5). The term ''unreasonable adverse effects on the environment'' is defined in FIFRA section 2(bb) as ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.'' The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR) process, is described in 40 CFR part 154, published in the **Federal Register** of November 25, 1985 (50 FR 49015). The purpose of this process is to determine whether some or all registrations of a particular active ingredient or ingredients meet the FIFRA standard for registration, or whether amendment of the terms and conditions of registration or cancellation of portions or all of the registrations is appropriate.

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR 154.21 announcing that the Agency is considering commencing a Special Review. Registrants and applicants for registration are allowed 30 days from receipt of the notification to comment on the Agency's proposal to commence a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will not conduct a Special Review, it is required under 40 CFR 154.23(b) to issue a proposed decision to be published in the **Federal Register**. Subsequent to receipt and evaluation of comments on the Proposed Decision Not To Initiate a Special Review, pursuant to 40 CFR 154.25 the Administrator must publish in the **Federal Register** his final decision regarding whether or not to initiate a Special Review. That regulation requires that a period of not less than 30 days be provided for public comment on the Proposed Decision Not To Initiate a Special Review. The portion of this Notice concerning ethyl parathion is being issued pursuant to 40 CFR 154.25.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will initiate a Special Review, 40 CFR 154.23(c) requires the Administrator to publish a Notice of Special Review in the **Federal Register**. To conclude the Special Review after a Special Review has been initiated, 40 CFR 154.31 requires the Administrator to first publish a Notice of Preliminary Determination in the **Federal Register**. That regulation requires the Administrator to respond to all significant comments received on the Notice of Special Review and, among other things, make a preliminary determination of whether any of the applicable risk criteria have been satisfied. Finally, after receipt and evaluation of comments on the Notice of Preliminary Determination, 40 CFR 154.33 requires that the Administrator publish in the **Federal Register** a Notice of Final Determination, including the reasons for the determination. The portion of this Notice concerning the tributylin antifoulants is being issued pursuant to 40 CFR 154.33.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 8, 2007.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances.

[FR Doc. E7–22374 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0944; FRL–8156–3]

Petition Requesting EPA to Issue a Notice of Intent to Cancel the Registrations of M-44 Sodium Cyanide Capsules and Sodium Fluoroacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is seeking public comment on a January 24, 2007 petition and its addendums dated March 20, 2007 and July 27, 2007 from Sinapu, Public Employees for Environmental Responsibility (PEER), Beyond Pesticides, Forest Guardians, Predator Defense, Western Wildlife Conservancy, Sierra Club, The Rewilding Institute, Animal Defense League of Arizona, and Animal Welfare Institute, available in docket number EPA–HQ–OPP–2007–0944, requesting that the Agency issue a Notice of Intent to Cancel the registration of M-44 sodium cyanide capsules and sodium fluoroacetate (commonly known as ''compound 1080''). The Petitioners request this action to obtain what they believe would be proper application of the safety standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The petition, its addendums, and the sodium cyanide and sodium fluoroacetate reregistration eligibility decisions (REDs) are available in the electronic docket at *http://www.regulations.gov* in docket number EPA–HQ–OPP–2007–0944 or at http://www.epa.gov/pesticides/reregistration/status.htm.

DATES: Comments must be received on or before January 15, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0944, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0944. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Joy Schnackenbeck, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8072; fax number: (703) 308–8005; e-mail address: *schnackenbeck.joy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including: environmental, human health, and agricultural advocates; the chemical industry, pesticide users, and members of the public interested in the sale, distribution, or the use of pesticides. Since others also may be interested, the

Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **For Further Information Contact**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. Background

What Action is the Agency Taking?

EPA requests public comment during the next 60 days on a petition (available in docket ID number EPA–HQ–OPP–2007–0944) received from Sinapu, Public Employees for Environmental Responsibility (PEER), Beyond Pesticides, Forest Guardians, Predator Defense, Western Wildlife Conservancy, Sierra Club, The Rewilding Institute, Animal Defense League of Arizona, and Animal Welfare Institute requesting that the Agency cancel all uses of M-44 sodium cyanide capsules and sodium fluoroacetate (compound 1080). The petitioners claim that sodium cyanide M-44 capsules and compound 1080 cannot perform their intended functions without causing unreasonable adverse effects on the environment and posing an imminent hazard. See 136 *et seq.* of FIFRA. The sodium cyanide and sodium fluoroacetate reregistration eligibility decisions (REDs) are available in the electronic docket at *http://www.regulations.gov* under docket number EPA–HQ–OPP–2007–0944 or at *http://www.epa.gov/pesticides/reregistration/status.htm*.

List of Subjects

Environmental protection, pesticides, and predators.

Dated: November 5, 2007.

Steven Bradbury,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–22369 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2002–0262; FRL–8339–5]

Endosulfan Updated Risk Assessments, Notice of Availability, and Solicitation of Usage Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's updated human health and ecological effects risk assessments for the organochlorine pesticide endosulfan, based in part on data recently submitted by endosulfan registrants as required in the 2002 Reregistration Eligibility Decision (RED). The Agency is seeking comment on these updated risk assessments as part of EPA's Post-RED process regarding endosulfan (see Note to Reader in the endosulfan docket for more detail). In addition, this notice solicits public comment on EPA's analysis of endosulfan usage information since the 2002 RED, and its preliminary determinations regarding endosulfan's importance to growers and availability of alternatives.

DATES: Comments must be received on or before January 16, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2002–0262, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2002–0262. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available

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

FOR FURTHER INFORMATION CONTACT: Tracy L. Perry, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0128; fax number: (703) 308–8005; e-mail address:*perry.tracy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. Background

A. What Action is the Agency Taking?

EPA is making available the Agency's updated risk assessments for endosulfan, last issued for comment through a **Federal Register** notice announcing the availability of the 2002 Reregistration Eligibility Decision (RED) published on November 6, 2002 (67 FR 67617) (FRL–7275–5). EPA also is soliciting public comment on the Agency's analysis of endosulfan usage information since the 2002 RED, and its preliminary determinations regarding endosulfan's importance to growers and availability of alternatives.

Endosulfan is a broad spectrum contact insecticide and acaricide registered for use on a wide variety of vegetables, fruits, cereal grains, and cotton, as well as ornamental shrubs, trees, vines, and ornamentals for use in commercial agricultural settings. Endosulfan is formulated as a liquid emulsifiable concentrate and a wettable powder. There are currently three endosulfan registrants: Makhteshim-Agan of North America, Makheteshim Chemical Works, Ltd., and Drexel Chemical Company. Bayer CropScience recently canceled all U.S. registrations of endosulfan products, effective July 16, 2007.

In its 2002 RED, EPA identified use of endosulfan to pose dietary, occupational, and ecological risks of concern. However, the Agency determined that these risks could likely be mitigated to levels below concern through the deletion of use on five crops and changes to pesticide labeling and formulation. Accordingly, EPA concluded that endosulfan was eligible for reregistration provided that: (1) Additional required data were submitted by the registrants confirming this decision; and (2) the risk mitigation measures outlined in the RED were adopted, and label amendments made to reflect these measures.

EPA's updated assessment of the potential human health effects of endosulfan is based on the review of a recently submitted developmental neurotoxicity (DNT) study, which was required in the reregistration eligibility decision for endosulfan. Based on the toxicological effects observed in the DNT, the Agency selected a different endpoint than used in the 2002 RED assessment to evaluate short- and intermediate-term dermal exposure for occupational handlers. Using the revised dermal endpoint, many of the occupational handler scenarios exceed the Agency's level of concern even with maximum Personal Protective Equipment (PPE) and engineering controls. In addition, for many of the occupational postapplication scenarios, the restricted-entry interval (REI) would be several to multiple days longer than the REIs required in the 2002 RED.

In addition, EPA has updated the ecological effects assessment for endosulfan based on studies required in the 2002 RED and on additional information drawn from the published literature on endosulfan bioaccumulation, monitoring and transport, and ecological incidence. In general, although preliminary, the new information suggests that parent endosulfan and its sulfate degradate may pose greater risks than the 2002 RED outlined. While the parent may readily undergo degradation under some environmental conditions, the sulfate degradate is persistent and represents a source for endosulfan to enter aquatic and terrestrial food chains. While endosulfan is not expected to

biomagnify appreciably in aquatic food webs, the compound does bioconcentrate in aquatic organisms to a significant extent. Also, there is direct evidence (measured residues) that endosulfan bioaccumulates in terrestrial systems and indirect evidence (modeling) that endosulfan has a significant potential to biomagnify in certain terrestrial food webs. In addition, EPA continues to be concerned about endosulfan's volatility and its ability to migrate to sites distant from use areas, such as the Arctic, through various environmental media (air, water, and sediment).

EPA is providing an opportunity, through this notice, for interested parties to comment on the Agency's updated human health and ecological effects assessments for endosulfan. Risks of concern associated with the use of endosulfan are: (1) Occupational handler risks for many use scenarios, even with maximum PPE and engineering controls; (2) risk to aquatic and terrestrial organisms; and (3) potential for significant adverse effects to vulnerable populations and ecosystems, based on the ability for endosulfan and its sulfate degradate to migrate to sites distant from use areas. In addition, the Agency is soliciting public comment on EPA's analysis of endosulfan usage information since the 2002 RED, and its preliminary determinations regarding endosulfan's importance to growers and availability of alternatives.

All comments should be submitted using the methods in**ADDRESSES**, and must be received by EPA on or before the closing date. Comments and proposals will become part of the Agency Docket for endosulfan. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA, as amended, directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 8, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–22385 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8495–5; Docket ID No. EPA–HQ–ORD–2007–1083]

Draft Toxicological Review of 1,2,3-Trichloropropane: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Comment Period.

SUMMARY: EPA is announcing a public comment period for the external review draft document titled, ''Toxicological Review of 1,2,3-Trichloropropane: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (NCEA–S–1669). The EPA intends to consider comments and recommendations from the public and the expert panel meeting, which will be scheduled at a later date and announced in the **Federal Register**, when EPA finalizes the draft document. The public comment period will provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments, submitted in accordance with this notice, to the external peer-review panel prior to the workshop for their consideration.

EPA is releasing this draft document solely for the purpose of pre-dissemination public review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document is available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *www.epa.gov/ncea.* When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

DATES: The public comment period begins November 16, 2007, and ends January 15, 2008. Technical comments should be in writing and must be received by EPA by January 15, 2008. EPA intends to submit comments from the public received by this date for consideration by the external peer-review panel.

ADDRESSES: The draft ''Toxicological Review of 1,2,3-Trichloropropane: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *www.epa.gov/ncea.* A limited number of paper copies are available from the Technical Information Staff, NCEA–W; telephone: 202–564–3261; facsimile: 202–565–0050. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *www.regulations.gov*, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*.

If you have questions about the document, contact Martin Gehlhaus, IRIS Staff, National Center for Environmental Assessment, (8601D), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–1596; facsimile: 202–565–0075; *gehlhaus.martin@epa.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 500 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public

health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–1083 by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov*.
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by e-mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2007–1083. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm*.

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

Dated: November 2, 2007.

Rebecca Clark,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. E7–22444 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board

AGENCY: U.S. Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of membership of the EEOC Performance Review Board.

SUMMARY: Notice is hereby given of the appointment of members to the EEOC Performance Review Board.

DATES: Membership is effective on the date of this notice.

FOR FURTHER INFORMATION CONTACT: Angelica E. Ibarguen, Chief Human Capital Officer, Office of Human Resources, U.S. Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507, (202) 663–4306.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) is required by 5 U.S.C. section 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes written recommendations regarding performance ratings, performance awards, potential Presidential Rank Award nominees, and performance-based pay adjustments to the Chair. The Board shall consist of at least three voting members. When evaluating a career appointee's initial appraisal or recommending a career appointee for a performance award, more than half of the members must be Senor Executive Service career appointees. The names and titles of the PRB members and alternates are as follows:

Anthony J. Kaminski, Chief Operating Officer (Chairperson)
John Czajkowski, Deputy Associate Director, Center for Program Studies, Office of Personnel Management (Member);
Rita Franklin, Deputy Director, Office of Human Capital Management, Department of Energy (Member);
Carlton M. Hadden, Director, Office of Federal Operations (Alternate);
Olophius Perry, Director, Los Angeles District Office (Member);
Gwendolyn Young Reams, Associate General Counsel for Litigation Management (Member); and
R.J. Ruff, Director, Houston District Office (Alternate).

Signed at Washington, DC, on this 8th day of November 2007.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E7–22388 Filed 11–15–07; 8:45 am]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Tuesday, November 20, 2007 at 9:30 a.m. The meeting will be held at Ex-Im Bank in room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEMS: Item No. 1: Ex-Im Bank Sub-Saharan Africa Advisory Committee for 2008.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tel. No. 202–565–3957).

Howard A. Schweitzer,

General Counsel.

[FR Doc. 07–5733 Filed 11–14–07; 12:38 pm]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2840]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

November 6, 2007.

Additional Petitions for Reconsideration and Clarification have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). (*See* Report No. 2836, released October 15, 2007 in the 87–268 Docket. This Report No. 2840 constitutes the second Public Notice; the first was published in the **Federal Register** on October 22, 2007. The pleading cycle for the Petitions listed in Report 2836 required Oppositions to be filed by November 6 and Replies to be filed by November 16.) The full text of these documents are available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by December 3, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service (MB Docket No. 87–268).

Number of Petitions Filed: 90.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22522 Filed 11–15–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2839]

Petitions for Reconsideration of Action in Rulemaking Proceeding

November 5, 2007.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by December 3, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fishers, Lawrence, Indianapolis and Clinton, Indiana) (MB Docket No. 05–67).

Number of Petitions Filed: 1.

Subject: In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Corona de Tucson, Sierra Vista, Tanque Verde and Vail, Arizona; Animas, Lordsburg and Virden, New Mexico) (MB Docket No. 05–245).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22523 Filed 11–15–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2007–N–13]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) is submitting the information collection entitled ''Federal Home Loan Bank Directors'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number, 3069–0002, which is due to expire on November 30, 2007.

DATES: Interested persons may submit written comments on or before December 17, 2007.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, *Attention*: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503.

FOR FURTHER INFORMATION OR COPIES OF THE COLLECTION CONTACT: Patricia L. Sweeney, Program Analyst, Office of Supervision, by electronic mail at *sweeneyp@fhfb.gov*, by telephone at 202–408–2872, or by regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1427) and the Finance Board's implementing regulation, codified at 12 CFR part 915, establish the eligibility requirements and the procedures for electing and appointing Federal Home Loan Bank (Bank) directors. Under part 915, the Banks determine the eligibility of elective directors and director nominees and run the annual director election process. To determine eligibility, the Banks use the Federal Home Loan Bank Elective Director Eligibility Certification Form, which has not changed since the information collection was last cleared in 2004. A copy of the Form is attached to this Notice.

In 2007, the Finance Board published two rules affecting the eligibility and selection of appointive Bank directors. The first rule, published in April 2007, requires the boards of directors of the Banks to submit to the Finance Board a list of individuals that includes information regarding each individual's eligibility and qualifications to serve as a Bank director. The Finance Board uses the list provided by each Bank to select well-qualified individuals to serve on the Bank's board of directors. *See* 72 FR 15600 (Apr. 2, 2007). The second rule, published in June 2007, clarifies the types of financial interests an appointive Bank director may maintain in a member of the Bank on whose board the director serves. *See* 72 FR 33637 (June 19, 2007). As a result of these regulatory changes, the Finance Board has revised the form the Banks and the Finance Board use to determine whether prospective appointive directors satisfy the statutory and regulatory eligibility requirements and renamed it the Federal Home Loan Bank Appointive Director Application Form (Application Form). The revised

Application Form asks individuals for information about their background and qualifications to serve as an appointive Bank director as well as compliance with statutory eligibility requirements. It also conforms the information about prohibited financial interests to the new rule. In addition, to reduce the burden on incumbent appointive directors, the Finance Board has created a new Federal Home Loan Bank Appointive Bank Director Annual Certification Form (Annual Form) that allows individuals simply to certify that they continue to meet the director eligibility requirements. Copies of both Appointive Director Forms are attached to this Notice.

The likely respondents include Banks, Bank members, and prospective and incumbent Bank directors. The OMB number for the information collection is 3069–0002. The OMB clearance for the information collection expires on November 30, 2007.

B. Burden Estimate

The Finance Board estimates the total number of respondents is 4,351, which includes 12 Banks, 4,000 Bank members, and 339 prospective and incumbent Bank directors. As explained below, the Finance Board estimates that the total annual hour burden for all respondents is 4580.5 hours.

1. Elections and Elective Directors

a. Banks

The Finance Board estimates the total annual hour burden for each Bank to conduct the election of directors and to process Elective Director Eligibility Certification Forms is 235 hours. The estimate for the average hour burden for all Banks is 2,820 hours (12 Banks × 235 hours = 2,820 hours).

b. Members

The Finance Board estimates the total annual average hour burden for all Bank members to participate in the election process is 1,075 hours. This includes the time necessary to consider elective director candidates and to cast votes. The Finance Board estimates that Bank members will consider 300 elective director candidates annually for a total of 75 hours (300 individuals × 15 minutes = 75 hours). The Finance Board estimates the total annual average hour burden for a Bank member to vote in the director election is 15 minutes for a total of 1,000 hours (4,000 voting members × 15 minutes = 1,000 hours).

c. Prospective and Incumbent Elective Directors

The Finance Board estimates the total annual average hour burden for all prospective and incumbent elective directors is 70 hours. This includes a total annual average of 100 prospective elective directors (out of the 300 individuals the Banks consider), with 1 response per individual taking an average of 30 minutes (100 individuals × 30 minutes = 50 hours). It also includes a total annual average of 80 incumbent elective directors, with 1 response per individual taking an average of 15 minutes (80 individuals × 15 minutes = 20 hours).

2. Appointive Directors

a. Banks

The Finance Board estimates the total annual average hour burden for each Bank to recruit, review, and recommend individuals to be appointed as Bank directors is 28 hours. In a typical year, no Bank should have more than three vacant appointive directorships. The estimate for the average hour burden for all Banks is 336 hours (12 Banks × 28 hours = 336 hours).

b. Prospective and Incumbent Appointive Directors

The Finance Board estimates the total annual average hour burden for all prospective and incumbent appointive directors is 279.5 hours. This includes a total annual average of 84 prospective appointive directors with 1 response per individual taking an average of 3 hours (84 individuals × 3 hours = 252 hours). It also includes a total annual average of 55 incumbent appointive directors, with 1 response per individual taking an average of 30 minutes (55 individuals × 30 minutes = 27.5 hours).

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on August 8, 2007. *See* 72 FR 44540 (Aug. 8, 2007). The 60-day comment period closed on October 9, 2007.

The Finance Board received two public comments, one from a trade association that represents community banks and one from a Bank. The trade association supported the use of the new and revised Appointive Director Forms, believing that the Application Form will elicit valuable information about applicant's skills and the Annual Form will reduce the reporting burden on incumbent directors.

The Bank suggested several changes, which the Finance Board has adopted, to the Appointive Director Forms to clarify the information an individual must provide. The Finance Board has clarified the instructions on the Annual Form to make clear that prohibited relationships between a director and a Bank or any member of the director's Bank, also apply to such relationships with the director's spouse or minor children. *See* 12 CFR 915.10(e)(6). On the Application Form, the Finance Board has made clear that an appointive director may not serve as an officer of any Bank and that the provisions on a director's contractual rights to the payment of money apply also to the director's spouse. *See* 12 U.S.C. 1427(a); 12 CFR 915.10(e)(6). The Finance Board also deleted the reference to interests held through a trust or other similar arrangement from the definition of ''indirect'' since this type of financial interest does not disqualify an individual from being appointed as a Bank director.

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments should be submitted to OMB in writing at the address listed above.

Dated: November 9, 2007.

By the Federal Housing Finance Board.

Neil R. Crowley,

Acting General Counsel.

BILLING CODE 6725–01–P

FEDERAL HOME LOAN BANK ELECTIVE DIRECTOR ELIGIBILITY CERTIFICATION FORM

1. Print or type your full name:

_____

2. Are you a citizen of the United States? **Yes** ____ **No** ____

3. Provide the address of your principal residence:

Street	City	State	Zip code
_____	_____	_____	_____

4. Provide the following information about the institution you serve as an officer or director that is a member of your Federal Home Loan Bank:

Name of member	**Your title or position**
_____	_____

Telephone number	**Fax number**	**E-mail address**
_____	_____	_____

Street	**City**	**State**	**Zip code**
_____	_____	_____	_____

Mailing address (if different)	**City**	**State**	**Zip code**
_____	_____	_____	_____

5. Provide the name and location of any other institution you serve as an officer or a director that is a member of any Federal Home Loan Bank:

Name of member	**City**	**State**	**Your title or position**
_____	_____	_____	_____

Name of member	**City**	**State**	**Your title or position**
_____	_____	_____	_____

Expires 11/30/2007
OMB No. 3069-0002

6. Does each member listed in LINE 4 and LINE 5 comply with all of its applicable minimum capital requirements established by its appropriate federal or state regulator?

Yes ____ **No** ____

I HEREBY CERTIFY that the information provided on this Federal Home Loan Bank Elective Director Eligibility Certification Form is true, correct, and complete to the best of my knowledge.

_____ _____
Signature Date

State of _____)
County of _____)

Signed and sworn to before me this ____ day of _____ of 20___.

_____
Signature of Notary Public

(Notarial Seal)

My commission expires: _____

DIRECTIONS

If you need assistance in completing this Form or have any questions, please contact:

Name:
Federal Home Loan Bank of
Address:
Telephone:
Fax:
E-Mail:

Who Must File and When

The Federal Home Loan Bank (Bank) uses the information you provide on this Form to determine whether you meet the statutory and regulatory eligibility requirements to serve as an elective Bank director. You can find these requirements in section 1427 of Title 12 of the United States Code (12 U.S.C. § 1427) and in part 915 of the Title 12 of the Code of Federal Regulations (12 C.F.R. part 915). A copy of the statutory and regulatory eligibility requirements is enclosed for your reference. Only individuals who satisfy these requirements may run for an elective directorship or serve as an elective director.

Nominees for an Elective Bank Directorship

If you wish to accept a nomination to serve as an elective Bank director, you must complete this Form and return it to the Bank on or before *[Insert Date]*. If you do not submit this Form to the Bank by the deadline, you will be deemed to have declined the nomination.

Incumbent Elective Bank Directors

Every year, each incumbent elective director must complete this Form and return it to the Bank on or before March 1st. The Bank will use information to confirm your continued eligibility to serve as an elective director. If you do not submit this form by the March 1st deadline, the Bank may declare that you are no longer eligible to serve as a Bank director, and may declare vacant the elective directorship that you hold. If March 1st falls on a Saturday, Sunday, or federal holiday, you have until the next business day to submit the completed Form.

Individuals Selected to Fill a Vacancy

If the Bank selected you to fill a vacancy on the board of directors, you must complete this Form and return it to the Bank on or before *[Insert Date]*. You cannot become an elective director unless you complete and return the Form to the Bank.

Line-by-Line Instructions

LINE 1. Print or type your full name.

LINE 2. You must be a United States citizen in order to serve as a Bank director. Check the appropriate answer.

LINE 3. Provide the address of your principal residence.

LINE 4. You must be an officer or a director of an institution that is a member of the Bank in order to be an elective director of that Bank. In addition, the member must be located in the state within the Bank district that is to be represented by the directorship you wish to hold. In most cases, a member will be deemed to be located where it maintains its home office or its principal place of business. Provide the requested information for the member you serve as an officer or director, as well as your title or position at that institution.

LINE 5. If you are an officer or director of any other institution that is a member of this or any other Bank, provide the name and location of the institution(s), as well as the position that you hold at the institution(s).

LINE 6. In order for you to be eligible to serve as an elective Bank director, every Bank member you serve as an officer or director must be in compliance with all of its applicable minimum capital requirements established by its appropriate federal or state regulator. The term "appropriate federal regulator" has the same meaning as the term "appropriate Federal banking agency" in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), and, for federally insured credit unions, means the National Credit Union Administration. The term "appropriate state regulator" means any State officer, agency, supervisor, or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a member.

Each institution y ou listed in LINE 4 and LINE 5 must be in compliance with all of the applicable minimum capital requirements established by its appropriate federal or state regulator. Please check the appropriate answer to this question.

FEDERAL HOME LOAN BANK APPOINTIVE DIRECTOR APPLICATION FORM

PERSONAL INFORMATION

Full name: _____

Address: _____

_____

_____

_____

Current employment:

_____ _____
Name of organization **Your title or position**

_____ _____ _____
Telephone number **Fax number** **E-mail address**

_____ _____ _____ _____
Street **City** **State** **Zip code**

_____ _____ _____ _____
Mailing address (if different) **City** **State** **Zip code**

Expires 11/30/2007
OMB No. 3069-0002

STATUTORY ELIGIBLITY REQUIREMENTS

An individual must satisfy certain statutory requirements in order to be eligible for appointment to the board of a Federal Home Loan Bank (Bank). The requirements relate to citizenship, residency, and, for prospective community interest directors, experience in that field. The statute also prohibits an appointive director from having certain financial interests in an institution that is a member of the Bank on whose board the director serves. The questions below address these statutory requirements.

1. ***Citizenship.*** Are you a citizen of the United States? **Yes ___ No ___**

2. ***Residency.*** In order to be an appointive director you must be a bona fide resident of a state that is within the geographic district of the Bank on whose board you wish to serve. You will satisfy this requirement if your principal residence is located within that geographic district, or if you own or lease a second residence within the district *and* are employed within the district. Please indicate which basis you are using to demonstrate bona fide residence.

Is your principal residence located within the Bank's geographic district? **Yes ___ No ___**

If you answered **No**, do you own or lease a second residence within the Bank's district *and* are you employed within the district? **Yes ___ No ___**

If so, provide the address of your second home, the name and address of your employer, and your title or position.

Second home address: _____

_____

Employer information:

_____ _____
Name of organization **Your title or position**

_____ _____ _____
Telephone number **Fax number** **E-mail address**

_____ _____ _____ _____
Street **City** **State** **Zip code**

_____ _____ _____ _____
Mailing address (if different) **City** **State** **Zip code**

Expires 11/30/2007
OMB No. 3069-0002

3. ***Community Interest Directors.*** If you are seeking appointment as a community interest director, you also must be able to demonstrate that you are a director, officer, employee, or member of an organization that has represented consumer or community interests on banking services, credit needs, housing, or financial consumer protections for at least two years.

If you meet this requirement, provide the name and address of the organization, specify your association with the organization, and describe how the organization has represented consumer or community interests for the past two years.

Name of organization	Your title or position		
Street	**City**	**State**	**Zip code**

Describe how the organization represents consumer or community interests:

_____

_____

_____

_____

4. ***Conflicts of interest.*** The statute prohibits an appointive director from serving as an officer of any Bank or as an officer or director of any member of the Bank on whose board the appointive director serves. The statute also prohibits an appointive director from owning shares or having certain other financial interests in any such member. You will have to give up any conflicting position and divest any conflicting financial interest before you can become a Bank director.

For purposes of this conflict of interest provision, the term:

"Member" includes the member institution itself, and any subsidiary of the member. If the member is owned by a holding company, the term "member" includes the holding company if 35 percent or more of the holding company's assets, on a consolidated basis, are attributable to institutions that are members of the Bank on whose board the appointive director serves. Thus you may not own stock in, or serve as a director or officer of, a holding company if one or more members of your Bank constitute 35 percent or more of the holding company's assets.

Expires 11/30/2007
OMB No. 3069-0002

"Financial interest" is broadly defined and includes any "direct or indirect financial interest in any activity, transaction, property, or relationship that involves receiving or providing something of monetary value," and "any right, contractual or otherwise, to the payment of money." It does not include:

- Financial interests that arise in the normal course of business with a member and are on terms generally available to the public, such as having money on deposit with, or obtaining a loan from, a member.

- Ownership of shares of a registered investment company (mutual fund) that owns debt or equity instruments issued by a member.

- Ownership of shares through a managed account (held by an investment adviser registered under the Investment Advisers Act of 1940), provided the adviser has complete investment discretion and you neither are affiliated with the adviser nor have control over the selection of securities.

- Contractual rights to the payment of money if the amount due to you and/or your spouse is less than 10 percent of your adjusted gross income for a calendar year.

"Direct" financial interest includes any interest that you hold in your own name, either as a sole or joint owner.

"Indirect" financial interest includes interests of your spouse or minor child(ren).

A. Please specify each position or financial interest you, your spouse, or minor child(ren) have in any member of the Bank on whose board you would serve.

_____

_____

_____

_____

_____

_____

B. Do you agree to give up positions and divest interests that are deemed to be conflicting financial interests before becoming an appointive director of that Bank? **Yes** ___ **No** ___

Expires 11/30/2007
OMB No. 3069-0002

SELECTION CRITERIA

The Banks are multi-billion dollar financial institutions, the principal business of which is to borrow funds in the capital markets and then provide secured loans to their members. The size and nature of the Banks' business requires each Bank to have a board of directors that possesses expertise in areas such as capital markets transactions, asset/liability management, the use of derivatives, accounting and financial modeling, mortgage markets, affordable housing, community investment, and legal/regulatory compliance. In making appointments to the boards of the Banks, the Finance Board seeks individuals who have broad business leadership experience, are financially literate, and have a commitment to serving on the board, as well as experience in one or more of the above areas.

1. ***Leadership Experience.*** Bank directors should have experience in senior management or policy-making in one or more fields of business, government, education, or community/civic affairs, and should have a record of achievement in their chosen profession or field of business. This experience should provide directors with the ability to understand the business of the Bank, to act independently, and to ask Bank management appropriate questions about how they are conducting Bank business.

A. If you have ever served as the CEO, CFO, COO, or in a similar capacity for a business enterprise, or as a dean or senior faculty member at a prominent college or university, or as a senior official for a federal or state government or prominent nonprofit organization, please provide the details for those positions, including the dates of service and the positions held.

_____

_____

_____

_____

B. If you have other experience dealing with issues such as developing or implementing business strategies, overseeing regulatory compliance, corporate governance, or board operations, or have previously served on the board of a large business enterprise, please describe those experiences.

_____

_____

_____

_____

Expires 11/30/2007
OMB No. 3069-0002

C. If you have other significant business or professional achievements that demonstrate your ability to lead an organization please describe them.

_____

_____

_____

_____

2. *Business Knowledge.* Bank directors must be financially literate, meaning they must be familiar with how financial statements and various financial ratios are used in managing a business enterprise, how basic accounting conventions apply to the Bank, and how internal controls are used to manage risk. They also must have some knowledge about one or more of the areas of the Bank's business, such as mortgage finance, capital markets transactions, accounting/modeling practices, affordable housing, community and economic development, and legal and regulatory compliance.

A. Do you know how to read and understand a financial statement, and do you understand how financial ratios and other indices are used for evaluating the performance of a business enterprise? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you gained that knowledge.

_____

_____

_____

_____

B. Do you have a working familiarity with basic finance and accounting practices, including internal controls and risk management? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you acquired that knowledge.

_____

_____

_____

_____

Expires 11/30/2007
OMB No. 3069-0002

C. Do you have experience with financial accounting and corporate finance, particularly with a publicly traded company? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

D. Do you have experience in capital market transactions? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

E. Do you have experience in an organization providing financing for residential mortgages, housing for low or moderate income individuals and families, or real estate development? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

F. Have you served in any position that required an understanding of the legal and other fiduciary obligations associated with being an independent director? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

Expires 11/30/2007
OMB No. 3069-0002

G. The mission of the Banks is to support the housing finance activities of their members, which includes residential mortgage finance and community and economic development lending activities. Please describe any prior experience that is related to the mission of the Banks.

_____

_____

_____

3. ***Commitment to Service.*** In order to serve effectively on the board of a Bank, a director must be able to attend the meetings of the board of directors and subcommittees on which the director serves, and to devote the time necessary to prepare for those meetings.

A. Do you have any other business or professional commitments that would hinder your ability to prepare for and attend board of director and committee meetings? **Yes** ___ **No** ___

If so, please describe the constraints on your ability to serve.

_____

_____

_____

_____

_____

B. If you serve on any other corporate boards, please provide the name and location of the organization, your role (*e.g.*, chair and committee assignments), and the term of service.

Name of organization	**Your role**	**Term**
Name of organization	**Your role**	**Term**
Name of organization	**Your role**	**Term**

Expires 11/30/2007
OMB No. 3069-0002

4. ***Personal Integrity.*** Character is an important consideration in evaluating any prospective Bank director. All directors must have high ethical standards and integrity in both their personal and professional dealings. Please indicate whether you ever have been convicted of a felony, been found to have violated any federal or state civil laws relating to the securities, banking, housing or real estate industries, or have had a professional license suspended or revoked. **Yes ___ No ___**

If you answered **Yes**, please explain.

_____

_____

_____

_____

5. ***Independence.*** It is essential that an appointive director be able act independently of management in overseeing the policy and operations of a Bank, and not have any relationships that may create actual or apparent conflicts of interest. Please disclose whether you have any familial or business relationships with any members of Bank management or the board of directors of the Bank, and any other relationship(s) that might lead a reasonable person to question your independence. **Yes ___ No ___**

If you answered **Yes**, please explain below.

_____

_____

_____

_____

6. ***Other Experience and Education.*** Please provide a copy of your resume that describes other business, professional, or educational achievements that are not described in the responses to the questions above.

BY EXECUTING AND SUBMITTING THIS APPLICATION FORM, YOU ARE CERTIFYING THAT THE INFORMATION YOU PROVIDED IS TRUE, CORRECT, AND COMPLETE TO THE BEST OF YOUR KNOWLEDGE AND THAT YOU AGREE TO SERVE AS A DIRECTOR IF APPOINTED.

_____ _____

Signature Date

Expires 11/30/2007
OMB No. 3069-0002

FEDERAL HOME LOAN BANK APPOINTIVE DIRECTOR CERTIFICATION FORM

Your name: _____

Federal Home Loan Bank of: _____

Every year, each incumbent appointive Federal Home Loan Bank (Bank) director must certify that he or she continues to meet all of the following eligibility requirements:

- United States citizen
- Bona fide resident of a state within the geographic district of the Bank on whose board you serve
  - your principal residence is located within that geographic district OR
  - you own or lease a second residence within the district *and* are employed within the district
- During your term of office, you may not directly or through your spouse or minor children:
  - serve as an officer of any Federal Home Loan Bank
  - serve as an officer or director of any member or subsidiary of a member of the Bank you serve, or any holding company that controls one or more members of the Bank you serve if the assets of all such members constitute 35 percent or more of the assets of the holding company, on a consolidated basis
  - hold shares of stock or have any other financial interest in any member or subsidiary of a member of the Bank you serve, or any holding company that controls one or more members of the Bank you serve if the assets of all such members constitute 35 percent or more of the assets of the holding company, on a consolidated basis
  - have contractual rights to the payment of money from a member, a subsidiary of a member, or a holding company that controls one or more members of the Bank you serve, if the amount due in a calendar year constitutes 10 percent or more of your adjusted gross income for that calendar year
- To be designated a community interest director, you must come from an organization with more than a two-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections

By executing this form, you are certifying that you continue to meet these requirements and that the Appointive Director Application Form you previously submitted as amended by any Annual Certification Form, is true, correct, and complete to the best of your knowledge.

Expires 11/30/2007
OMB No. 3069-0002

Please check one box:

☐ **No changes have occurred.**

☐ **Changes have occurred to my responses in these sections of my Form:**

Personal information:

_____

_____

Eligibility information, including conflicts of interest:

_____

_____

Commitment to serve:

_____

_____

Personal integrity:

_____

_____

Independence:

_____

_____

Other changes:

_____

_____

Dated: _____

Signature: _____

Expires 11/30/2007
OMB No. 3069-0002

[FR Doc. 07–5715 Filed 11–15–07; 8:45 am]
BILLING CODE 6725–01–C

FEDERAL RESERVE SYSTEM

Agency Information Ccollection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY: Background. Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer —Michelle Shore—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829); OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Disclosure Requirements Associated with Regulation V
Agency form number: Reg V
OMB control number: 7100–0308[1]
Frequency: On occasion
Reporters: Financial institutions[2]
Annual reporting hours: 7,500 hours
Estimated average hours per response: .25 hours
Number of respondents: 30,000
General description of report: This information collection is mandatory (15 U.S.C. § 1681s–2(a)(7)). Because the records are maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality arises under the Freedom of Information Act.

Abstract: Financial institutions that (1) extend credit and regularly and in the ordinary course of business furnish information to a nationwide consumer reporting agency, and (2) furnish negative information to such an agency regarding credit extended to a customer must provide a clear and conspicuous notice to the customer, in writing, about furnishing this negative information.

Current Actions: On September 6, 2007, the Federal Reserve published a notice in the Federal Register (72 FR 51228) requesting public comment for sixty days on the extension, without revision, of these disclosure requirements; the comment period expired on November 5, 2007. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, November 13, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–22454 Filed 11–15–07; 8:45 am]
BILLING CODE 6210–01–S

[1] The information collections associated with the following rulemakings: Fair Credit Reporting Affiliate Marketing Regulations (Docket No R1203) and Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003 (Docket No R1255), will be assigned OMB No. 7100–0308.

[2] Under section 217, the term ''financial institution'' is defined broadly to have the same meaning as in the privacy provisions of the Gramm–Leach–Bliley Act of 1999 (GLB Act), which defines financial institution to mean ''any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956,'' whether or not affiliated with a bank. 15 U.S.C. 6809(3).

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Webs ite at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 10, 2007.

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. BNP Paribas, Paris, France; to acquire up to 9.9 percent of the voting shares of Shinhan Financial Group Co., Ltd., Seoul, Korea, and thereby indirectly acquire Shinhan Bank America, New York, New York.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. ISB Financial Corp., Iowa City, Iowa, to merge with MidWestOne Financial Group, Inc. and thereby indirectly acquire MidWestOne Bank, both of Oskaloosa, Iowa.

Board of Governors of the Federal Reserve System, November 9, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–22341 Filed 11–15–07; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 13, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. TriCentury Corporation, Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Nine Tribes Bancshares, Inc., and thereby acquire The Bank of Quapaw, both of Quapaw, Oklahoma.

Board of Governors of the Federal Reserve System, November 13, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–22455 Filed 11–15–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX]

Information Collection Standard Form, Real Property Status Report (SF–XXXX)

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding a new information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the GSA Office of Governmentwide Policy will submit to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning reporting real property status.

In support of OMB's continuing effort to reduce paperwork and respondent burden, GSA invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning forms that will be used to collect information related to real property when required by a Federal financial assistance award. To view the form, go to OMB's main Web page at *http://www.OMB.gov* and click on the ''Grants Management'' and ''Forms'' links. OMB specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: *Comment Due Date*: January 15, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Nelson, Chair, Post-Award Workgroup; telephone 301–713–0833 ext. 199; fax 301–713–0806; e-mail *Michael.Nelson@noaa.gov*; mailing address 1305 East-West Highway, Room 7142, Silver Spring, MD 20910.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA, on behalf of the Federal Grants Streamlining Initiative, proposes to issue a new standard form, the Real Property Status Report (SF–XXXX). The SF–XXXX will be used to collect information related to real property when required by a Federal financial assistance award. The SF–XXXX includes a cover page, an Attachment A and Attachment B. The purpose of this new form is to report real property status or to request agency instructions on real property that was or will be provided or acquired, in whole or in part, under a Federal financial assistance award (*e.g.*, grant, cooperative agreement, etc.), including real property that was improved (special circumstances apply to improvements) using Federal funds and real property that was donated to a Federal project in the form of a match or cost sharing donation. The form does not create any new reporting requirements. It does establish a standard format for reporting real property status under financial assistance awards. It does establish a standard annual reporting date of September 30 to be used, if an award does not specify an annual reporting date. The standard form will replace any agency unique forms currently in use to allow uniformity of collection and to support future electronic submission of information.

Background

Public Law 106–107 requires the OMB to direct, coordinate, and assist Executive Branch departments and agencies in establishing an interagency process to streamline and simplify Federal financial assistance procedures for non-Federal entities. The law also requires executive agencies to develop, submit to Congress, and implement a plan for that streamlining and simplification. Twenty-six Executive Branch agencies jointly submitted a plan to the Congress in May 2001. The plan described the interagency process through which the agencies would review current policies and practices and seek to streamline and simplify them. The process involved interagency work groups under the auspices of the U.S. Chief Financial Officers Council, Grants Policy Committee. The plan also identified substantive areas in which the interagency work groups had begun their review. Those areas are part of the Federal Grants Streamlining Initiative.

This proposed form is an undertaking of the interagency Post-Award Workgroup that supports the Federal Grants Streamlining Initiative. Additional information on the Federal Grants Streamlining Initiative, which focuses on implementing the Federal Financial Assistance Management Improvement Act of 1999 (Public Law 106–107), is set forth in the **Federal Register** published on September 13, 2006 (71 FR 54098). An overview of the SF–XXXX and five other report forms being developed under the Initiative was provided during a webcast of the Grants Policy Committee of the U.S. Chief Financial Officer Council held on March 8, 2007 (72 FR 7090, February 14, 2007).

Under the standards for management and disposition of federally-owned property and real property acquired under assistance awards (real property status) in 2 CFR Part 215, the ''Uniform

Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' and the ''Uniform Administrative Requirements for Grants and Agreements with State and Local Governments,'' codified by Federal agencies at 53 FR 8048, on March 11, 1988, recipients may be required to provide Federal agencies with information concerning property in their custody annually, at award closeout or when the property is no longer needed. During the public consultation process mandated by Public Law 106–107, recipients suggested the need for clarification of these requirements and the establishment of a standard form to help them submit appropriate property information when required. The Real Property Status Report (SF–XXXX) is to be used in connection with requirements listed in the table below and Federal awarding agency guidelines:

For . . .	A recipient must . . .	When . . .	Under . . .
Federally-owned property	Submit an inventory listing	Annually, with information accurate as of 30 September, unless the award specifies a different date.	2 CFR 215.33(a)(1) A–102 Attachment 3.b.(5).
	Report the property to the Federal awarding agency.	The property is no longer needed ...	2 CFR 215.33(a)(1).
	Report the property to the Federal awarding agency.	Upon completion of the award	2 CFR 215.33(a)(1) A–102 Attachment 3.a.(1) and (2).
Real property acquired in whole or in part under an assistance award.	Sell the property and reimburse the Federal awarding agency for the Federal share.	The recipient is directed to sell the property under guidelines provided by the Federal awarding agency.	2 CFR 215.32(c)(2) Federal awarding agency guidelines.
	Transfer title to the property to the Federal Government or to an eligible third party.	The recipient is directed to transfer title by the Federal awarding agency or its successor.	2 CFR 215.32(c)(3).
	Compensate the original Federal awarding agency or its successor.	The recipient wants to retain title without further obligation to the Federal Government.	2 CFR 215.32(c)(1).
	Obtain the approval of the Federal awarding agency.	Before making capital expenditures for improvements to property that materially increase its value or useful life.	2 CFR 230, Appendix B, Item 27. 2 CFR 220, Appendix A, Item 18.b.(3) A–87, Attachment B, Item 15.b.3.
	Obtain the approval of the Federal awarding agency.	The recipient wants to use the real property in other federally-sponsored projects or programs that have purposes consistent with those authorized for support by the Federal awarding agency when the recipient determines that the property is no longer needed for the purpose of the original project.	2 CFR 215.32(b).
	Request disposition instructions	The recipient no longer needs the property for any purpose.	2 CFR 215.32(c).

B. Annual Reporting Burden

This form will be used by Federal agencies to collect information related to real property when required by a Federal financial assistance award. Since this form will be used primarily for reporting related to grants, and the GSA does not award grants, we are providing a burden estimate for one respondent.

Respondents: Assistance recipients.

Estimated Total Annual Burden Hours: 1.666667.

Estimated Cost: There is no expected cost to the respondents or to GSA.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Real Property Status Report SF–XXXX	1	1	0.16666667	0.16666667
SF–XXXX—Real Property Status Report [Attachment A]	1	1	0.75	0.75
SF–XXXX—Real Property Status Report [Attachment B]	1	1	0.75	0.75
TOTAL	.....	.....	.....	1.666667

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755, or by faxing your request to (202) 501–4067. Please cite the title, OMB Control No. 3090–00XX, Real Property Status Report, in all correspondence.

Dated: November 9, 2007.

Casey Coleman,

Chief Information Officer.

[FR Doc. 07–5724 Filed 11–15–07; 8:45 am]

BILLING CODE 6820–RH–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX]

Information Collection Standard Form, Tangible Personal Property Report (SF–XXXX)

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding a new information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the GSA, Office of Governmentwide Policy will submit to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning reporting tangible personal property.

In support of OMB's continuing effort to reduce paperwork and respondent burden, GSA invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning forms that will be used to collect information related to tangible personal property when required by a Federal financial assistance award. To view the form, go to OMB's main Web page at *http://www.OMB.gov* and click on the ''Grants Management'' and ''Forms'' links. OMB specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: *Comment Due Date:* January 15, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Nelson, Chair, Post-Award Workgroup; telephone 202–482–4538; fax 301–713–0806; e-mail *Michael.Nelson@noaa.gov;* mailing address 1305 East-West Highway, Room 7142, Silver Spring, MD 20910.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–00XX, Tangible Personal Property Report, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA, on behalf of the Federal Grants Streamlining Initiative, proposes to issue a new standard form, the Tangible Personal Property Report (SF–XXXX). The SF–XXXX includes a cover page, an Annual Report attachment, a Final Report attachment, a Disposition/Request Report attachment and a Supplemental Sheet to provide detailed item information. The purpose of this new form is to provide a standard form for assistance recipients to use when they are required to provide a Federal agency with information related to federally owned property, or equipment and supplies (tangible personal property) acquired with assistance award funds. The form does not create any new reporting requirements. It does establish a standard annual reporting date of September 30 to be used if an award does not specify an annual reporting date. The standard form will replace any agency unique forms currently in use to allow uniformity of collection and to support future electronic submission of information.

Background

Public Law 106–107 requires OMB to direct, coordinate, and assist Executive Branch departments and agencies in establishing an interagency process to streamline and simplify Federal financial assistance procedures for non-Federal entities. The law also requires executive agencies to develop, submit to Congress, and implement a plan for that streamlining and simplification. Twenty-six Executive Branch agencies jointly submitted a plan to the Congress in May 2001. The plan described the interagency process through which the agencies would review current policies and practices and seek to streamline and simplify them. The process involved interagency work groups under the auspices of the U.S. Chief Financial Officers Council, Grants Policy Committee. The plan also identified substantive areas in which the interagency work groups had begun their review. Those areas are part of the Federal Grants Streamlining Initiative.

This proposed form is an undertaking of the interagency Post-Award Workgroup that supports the Federal Grants Streamlining Initiative. Additional information on the Federal Grants Streamlining Initiative, which focuses on implementing the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107), is set forth in the **Federal Register** published on September 13, 2006 (71 FR 54098). An overview of the SF–XXXX and five other report forms being developed under the Initiative was provided during a webcast of the Grants Policy Committee of the U.S. Chief Financial Officers Council held on March 8, 2007 (72 FR 7090, February 14, 2007).

Under the standards for management and disposition of federally-owned property, equipment and supplies (tangible personal property) in 2 CFR part 215, the ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' and the ''Uniform Administrative Requirements for Grants and Agreements with State and Local Governments,'' codified by Federal agencies at 53 FR 8048, March 11, 1988, recipients may be required to provide Federal agencies with information concerning property in their custody annually, at award closeout or when the property is no longer needed. During the public consultation process mandated by Public Law 106–107, recipients suggested the need for clarification of these requirements and the establishment of a standard form to help them submit appropriate property information when required. The Tangible Personal Property Report (SF–XXXX) must be used in connection with requirements listed in the table below and Federal awarding agency guidelines:

For . . .	A recipient must . . .	When . . .	Under . . .
Federally owned property	Submit an inventory listing ...	Annually, with information accurate as of 30 September, unless the award specifies a different date.	2 CFR 215.33(a)(1); A–102, ____.32(f)(2).
	Request Federal agency authorization.	It wants to use the property on other activities not sponsored by the Federal Government.	2 CFR 215.34(d).
	Notify the Federal awarding agency.	Immediately upon finding property is lost, damaged, or stolen.	2 CFR 215.33(f)(4).
	Request disposition instructions.	The property is no longer needed	2 CFR 215.33(a)(1); A–102, ____.32(f)(3).
	.....	Upon completion of the award	2 CFR 215.33(a)(1) and 2 CFR 215.71(f); A–102, ____.50(b)(5).
Grantee-acquired equipment in which the Federal Government retains an interest.	Obtain the approval of the Federal awarding agency.	Acquiring replacement equipment, before: (1) Using the current equipment as trade-in; or (2) selling it and using the proceeds to offset the costs of the replacement equipment.	2 CFR 215.34(e); A–102, ____.32(c)(4).
	Compensate the original Federal awarding agency or its successor.	Equipment has a per unit fair market value of greater than $5,000 and the grantee no longer needs the equipment for Federally supported activities and retains the equipment for other uses.	2 CFR 215.34(g); A–102, ____.32(e)(2).
	Request disposition instructions.	It no longer needs the equipment for any purpose	2 CFR 215.34(g).
	Sell the equipment and reimburse the Federal awarding agency for the Federal share.	Equipment has a per unit fair market value of greater than $5,000 and the recipient no longer needs the equipment for any purpose and requested disposition instructions, and either was instructed to sell the equipment or received no instructions within 120 days.	2 CFR 215.34(g)(1); A–102, ____.32(e)(2).
	Account for the equipment ...	Upon completion of the award, when the awarding agency has reserved the right to transfer title to the Federal Government or a third party.	2 CFR 215.71(f) and 2 CFR 215.34(g)(4)(ii).
Supplies	Compensate the Federal Government for its share.	It has a residual inventory of unused supplies exceeding $5,000 in aggregate value at the end of a project or program that is not needed for other Federally supported activities.	2 CFR 215.35(a); A–102, ____.33(b).

B. Annual Reporting Burden

This report will be used to collect information related to tangible personal property (equipment and supplies) when required by a Federal financial assistance award. Since this form will primarily be used for reporting under grants, and GSA does not award grants, we are providing a burden estimate for one respondent.

Respondents: Federal agencies and their assistance recipients.

Estimated Total Annual Burden Hours: 2.75.

Estimated Cost: There is no expected cost to the respondents or to GSA.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tangible Personal Property Report (SF–XXXX)	1	1	0.166666667	0.166666667
Annual Report: Attachment to SF–XXXX	1	1	0.75	0.75
Final Report: Attachment to SF–XXXX	1	1	0.75	0.75
Disposition Request/report: Attachment to SF–XXXX	1	1	0.75	0.75
Tangible Personal Property Report Supplemental Sheet (SF–XXXX–S)	1	1	0.333333333	0.333333333
Total	.....	.....	.....	2.75

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–00XX, Tangible Personal Property Report, in all correspondence.

Dated: November 9, 2007.

Casey Coleman,

Chief Information Officer.

[FR Doc. 07–5735 Filed 11–15–07; 8:45 am]

BILLING CODE 6820–RH–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–08–0138]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam Daneshvar, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

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 or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Pulmonary Function Testing Course Approval Program, 29 CFR 1910.1043 (OMB No. 0920–0138)—Extension—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background

NIOSH has the responsibility under the Occupational Safety and Health Administration's Cotton Dust Standard, 29 CFR 1920.1043, for approving courses to train technicians to perform pulmonary function testing in the cotton industry. Successful completion of a NIOSH-approved course is mandatory under the Standard. To carry out its responsibility, NIOSH maintains a Pulmonary Function Testing Course Approval Program. The program consists of an application submitted by potential sponsors (universities, hospitals, and private consulting firms) who seek NIOSH approval to conduct courses, and if approved, notification to NIOSH of any course or faculty changes during the approval period, which is limited to five years. The application form and added materials, including an agenda, curriculum vitae, and course materials are reviewed by NIOSH to determine if the applicant has developed a program which adheres to the criteria required in the Standard. Following approval, any subsequent changes to the course are submitted by course sponsors via letter or e-mail and reviewed by NIOSH staff to assure that the changes in faculty or course content continue to meet course requirements. Course sponsors also voluntarily submit an annual report to inform NIOSH of their class activity level and any faculty changes. Sponsors who elect to have their approval renewed for an additional 5 year period submit a renewal application and supporting documentation for review by NIOSH staff to ensure the course curriculum meets all current standard requirements. Approved courses that elect to offer NIOSH-Approved Spirometry Refresher Courses must submit a separate application and supporting documents for review by NIOSH staff. Institutions and organizations throughout the country voluntarily submit applications and materials to become course sponsors and carry out training. Submissions are required for NIOSH to evaluate a course and determine whether it meets the criteria in the Standard and whether technicians will be adequately trained as mandated under the Standard. The estimated annual burden to respondents is 196 hours. There will be no cost to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Forms for respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hrs)	Total burden (in hrs)
Initial Application	3	1	3.5	11
Annual Report	35	1	30/60	18
Report for Course Changes	12	1	45/60	9
Renewal Application	13	1	6	78
Refresher Course Application	10	1	8	80
Total	73			196

Dated: Novmeber 9, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–22418 Filed 11–15–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–08–07AF]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluation of the Safe Dates Project—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and brief description of the proposed project: The specific aims of this study are to describe the implementation and drivers of implementation of the Safe Dates program (implementation evaluation); to evaluate its impact on desired outcomes, including prevention of and reduction in dating violence victimization and perpetration (including psychological abuse, stalking, physical violence, and sexual violence) among ninth-grade students (experimental effectiveness evaluation); and to evaluate its cost-effectiveness, including cost-utility (cost evaluation). The evaluation will require participation from staff and students at 54 schools (18 treatment schools receiving the Safe Dates program with teacher training and observation, 18 treatment schools receiving the Safe Dates program without teacher training and observation, and 18 control schools not receiving the Safe Dates program).

Implementation evaluation data will be collected primarily through Web questionnaires completed by principals, school prevention coordinators, and teachers delivering the program; effectiveness evaluation data will be collected via classroom scannable forms with ninth-graders who attend treatment or control schools; and cost evaluation data will be collected via a Web survey of teachers delivering the program who receive training and observation. High schools that agree to participation will be matched into sets of three.

Characteristics that will be considered in the matching process include demographics and urban/rural county type. Large schools will be given the option to invite a census of ninth grade students to participate in the study or to invite a subset of ninth grade students (in certain classes) to participate. Schools within a set of three will be matched on census versus subset selection of ninth graders to ensure that all schools in a set use the same selection process. Eighteen matched sets of three schools will be selected. One school from each matched set will be assigned randomly either to receive the Safe Dates program with teacher training and observation, to receive the Safe Dates program without teacher training and observation, or to serve as a control group.

Approximately 10,158 students at the 54 schools will complete a baseline effectiveness evaluation scannable survey. During the classroom-administered survey, information will be collected from students about how they feel about dating, communicating with a dating partner, and attitudes and behaviors related to violence, including violence between preteen and teen dating couples. Informed written consent from parents for their child's participation and informed written consent from ninth graders for their own participation will be obtained. During Web surveys, school staff will be asked about implementation and costs of the Safe Dates program.

Effectiveness evaluation baseline data collection will span the period from October to November 2007, and follow-up data collection will occur during January and February 2009. Assuming an 80 percent response rate at follow-up, it is anticipated that a total of 8,126 students will complete follow-up effectiveness evaluation surveys.

To evaluate the implementation and implementation drivers of the program, principals and prevention coordinators at all 54 schools will be asked to complete a series of Web surveys from October 2007 to February 2009. Assuming a 91 percent response rate for all school staff surveys, it is anticipated that 48 principals and 48 prevention coordinators will complete baseline implementation questionnaires, 32 principals and 32 prevention coordinators at treatment schools will complete mid-implementation questionnaires, 49 principals will complete end-of-school year implementation questionnaires, and 49 prevention coordinators will complete follow-up implementation questionnaires. In addition, 98 teachers at treatment schools will complete Web baseline implementation questionnaires, 49 teachers at treatment schools receiving training and observation will complete cost questionnaires, and 98 teachers at treatment schools will complete two mid-implementation questionnaires each. Students at treatment schools (n= 4,515) will also complete two mid-implementation questionnaires each.

It is anticipated that study results will be used to determine the Safe Dates program's effectiveness, economic and time costs, cost-effectiveness, cost-utility, feasibility of implementation, dissemination facilitators, and needed improvements for implementation with fidelity.

There are no costs to respondents except their time to participate in the interview. The total estimated annualized burden hours are 14,112.

ESTIMATED ANNUALIZED BURDEN

Type of respondent	Instrument name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Student	Effectiveness baseline survey	10,158	1	35/60
	First mid-implementation survey	3,612	1	25/60
	Second mid-implementation survey	3,612	1	25/60
	Effectiveness follow-up survey	8,126	1	35/60

ESTIMATED ANNUALIZED BURDEN—Continued

Type of respondent	Instrument name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Principal	Baseline implementation survey	49	1	15/60
	Mid-implementation survey	32	1	15/60
	End-of-school-year implementation survey	49	1	15/60
Prevention coordinator.	Baseline implementation survey	49	1	15/60
	Mid-implementation survey	32	1	15/60
	End-of-school-year implementation survey	49	1	15/60
	Follow-up implementation survey	49	1	5/60
Teacher	Baseline implementation survey	98	1	15/60
	Cost survey	49	11	20/60
	Fifth session mid-implementation survey	98	2	25/60
	Ninth session mid-implementation survey	98	2	25/60

Dated: November 9, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer.

[FR Doc. E7–22419 Filed 11–15–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08AC]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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 or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Racial and Ethnic Approaches to Community Health (REACH) U.S. Evaluation—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

REACH U.S. is an effort to meet the Healthy People 2010 goal of eliminating health disparities in the health status of racial and ethnic minorities. After initial review of the national data, a study approach was adopted on the statistical techniques of ''excess deaths'' to define the difference in minority health in relation to non-minority health. The analysis of excess deaths revealed that several specific health areas accounted for the majority of the higher annual proportion of minority deaths. Because of these sobering statistics, and the overarching goals of Healthy People 2010, REACH U.S. is being launched as a national multi-level community intervention program that serves communities with African American, American Indian, Hispanic American, Asian American, and Pacific Islander citizens. The REACH U.S. program supports community coalitions in designing, implementing, and evaluating community-driven strategies to eliminate health disparities in several priority areas: Cardiovascular diseases, diabetes, asthma, infant mortality, breast and cervical cancer screening and management, and adult immunization.

As part of the evaluation of the REACH U.S. initiative, CDC proposes to conduct risk factor surveys by computer-assisted telephone interview (CATI) in 29 communities participating in REACH U.S. activities. Surveys will be available in English, Spanish, Vietnamese, Khmer, and Mandarin Chinese. The target number of surveys for each community is 900 adults, aged 18 and older, who belong to the racial/ethnic group served by the community-based program intervention. In communities that focus on breast and cervical cancer interventions, approximately 250 of the 900 interviews will involve women aged 40–64 years. Respondents will be identified through list-assisted random-digit dialing methods. The surveys will help to assess the prevalence of various risk factors associated with chronic diseases, deficits in breast and cervical cancer screening and management, and deficits in adult immunizations. The surveys will also assess progress towards the national goal of eliminating health disparities within the communities.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	No. of respondents	No. of responses per respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Members of REACH U.S. Communities.	Screening Interview	100,200	1	2/60	3,340
	REACH U.S. Risk Factor Survey.	26,100	1	15/60	6,525
Total					9,865

Dated: November 9, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–22421 Filed 11–15–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–07–07BS]

Proposed Data Collections Submitted for Public Comment and Recommendations; Correction Centers for Disease Control and Prevention; Notice; Correction

The Centers for Disease Control and Prevention published a document in the **Federal Register** concerning a retraction of a previously published 60-day **Federal Register** Notice. The document contained the incorrect **Federal Register** Notice number.

FOR FURTHER INFORMATION CONTACT: Maryam Daneshvar, 404–639–4604.

Correction

In the **Federal Register** of November 7, 2007, Volume 72, Number 215, in FR Doc. E7–21864 page 62857, under the agency name correct the **Federal Register** notice number 60 Day–07–07BS to read: 60 Day–07–06BS.

Dated: November 7, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–22420 Filed 11–15–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10230]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections 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.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* PACE Audit Guide Version 1; *Use:* CMS conducts a comprehensive annual on-site review of Programs of All-Inclusive Care for the Elderly (PACE) program provider operations in order to assure contract compliance during the first three years (the trail period) with CMS and the State administering agency. Onsite monitoring continues at least every 2 years after the first 3-year trial period ends. The purpose of the guide is oversight, monitoring, compliance and auditing of the activities necessary to ensure quality provision of the Medicare Parts A, B and D benefits to beneficiaries. *Form Number:* CMS–10230 (OMB#: 0938–New); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 22; *Total Annual Responses:* 22; Total Annual Hours: 6,336.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on *January 15, 2008.* CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development–C, Attention: Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 8, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–22255 Filed 11–15–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–382]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health

and Human Services, is publishing the following summary of proposed collections 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 function; (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.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* ESRD Beneficiary Selection and Supporting Regulations Contained in 42 CFR 414.330; *Use:* Section 2145 amended section 1881 of the Social Security Act and changes the way the Medicare program pays for home dialysis services. Medicare patients who currently receive dialysis in a facility but later become home dialysis patients must complete the CMS–382 form at the time they go to the home setting. Facilities are required to have all Medicare home dialysis patients choose one of two payment methods. Under Method I, the dialysis facility assumes responsibility for patient care and the facility provides all dialysis equipment and supplies needed to dialyze at home. The facility is required to order, store, deliver, and pay the manufacturers and suppliers for these items. Under Method II, the beneficiary makes his/her own arrangement for securing the necessary supplies and dialysis equipment. Then, the supplier bills the Medicare program (Carrier) for payment.

Form Number: CMS–382 (OMB#: 0938–0372); *Frequency:* Reporting—Yearly; *Affected Public:* Individuals or households; *Number of Respondents:* 7400; *Total Annual Responses:* 7400; *Total Annual Hours:* 617.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326. To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on December 17, 2007. OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: *November 7, 2007.*

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–22268 Filed 11–15–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Computerized Support Enforcement Systems—NPRM.

OMB No.: 0980–0271.

Description: The information being collected is mandated by Section 454(16) of the Social Security Act (the Act), which provides for the establishment and operation by State agencies, in accordance with an initial and annually updated Advance Planning Document (APD) approved under section 452(d) of the Act, of a statewide system meeting the requirements of section 454A of the Act. In addition, section 454A(e)(1) of the Act requires that States create a State Case Registry (SCR) within their statewide automated child support systems to include information on IV–D cases and non-IV–D orders established or modified in the State on or after October 1, 1998. Section 454A(e)(5) of the Act requires States to regularly update their cases in the SCR.

This notice reflects the new transaction set for SCR to Federal Case Registry (FCR) transactions where States are encouraged, but not required, to submit child data from their SCR to the FCR.

The data being collected for the APD are a combination of narratives, budgets and schedules, which are used to provide funding approvals on an annual basis and to monitor and oversee systems development. Child support has separate regulations under 45 CFR 307.15 related to submittal of APDs because the program had supplemental authority for enhanced funding for systems development, a requirement for Independent Validation and Verification (IV&V) reviews for high risk projects, waiver authority, and has substantial penalties for non-compliance with the statutory deadline of October 1, 2000. This information collection reflects the fact that 52 States and Territories are now certified as meeting the automation requirements of the Family Support Act of 1988 (FSA) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), leaving only two States that are not yet PRWORA systems certified and only one State that has not submitted an Implementation APD for compliance with PRWORA automation. The two States not yet certified have a requirement for ongoing IV&V, i.e., that up to five States will require semiannual IV&V services related to their plans to develop entirely new CSE systems to replace their legacy systems and that one State is operating under a waiver for an Alternative Systems Configuration which requires additional information to be provided on an annual basis. States and Territories that opted to keep their APD for child support systems are covered under a separate Information Collection, OMB No. 0992–0005, for 45 CFR Part 95 Subpart F.

The data being collected for the SCR is used to transmit mandatory data elements to the FCR where it is used for matching against other databases for the purposes of location of individuals, assets, employment and other child support related activities.

Respondents: State and Territorial Child Support Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
307.15(b)(1)(IV&V), Ongoing	2	12	16	384
307.15(b)(1) (IV&V), Semiannual	5	2	16	160
307.5(b), Waiver Option	1	1	80	80

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
307.5(a) System, Certification	2	1	240	480
307.11(e)(1)(ii), Collection of Non-IV–D Data for SCR—States	54	25,200	.046	62,597
Collection of Child Data for IV–D Cases for SCR—States	54	12,000	.083	53,784
307.11(e)(1)(ii), Collection of Non-IV–D Data for SCR—Courts	3,045	447	.029	39,472
307.11(e)(3)(v), Collection of Child Data for IV–D cases for SCR—Courts	3,045	213	.083	53,833
307.11(f)(1), Case Data Transmitted from SCR to FCR—New cases and case updates	54	52	2.82	7,919

Estimated Total Annual Burden Hours: 218,709.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families; Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

November 7, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–5652 Filed 11–15–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee A—Cancer Centers.

Date: December 6–7, 2007.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gail J. Bryant, MD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8042, Bethesda, MD 20852–7405, (301) 402–0801.

Name of Committee: National Cancer Institute Special Panel; Cancer Center Support Grant.

Dated: December 6, 2007

Time: 2:40 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David E. Maslow, PhD, Chief, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8117, Bethesda, MD 20892–7405, (301) 496–2330.

Name of Committee: National Cancer Institute Special Emphasis Panel; Prevention, Control and Population Sciences.

Date: January 30–31, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Wlodek Lopaczynski, MD, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. Room 8131, Bethesda, MD 20892, 301–594–1402, *lopacw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Molecular Oncology.

Date: February 6–8, 2008.

Time: 5:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael B. Small, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8127, Bethesda, MD 20892–8328, 301–402–0996, *smallm@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SPORE in Lymphoma, Myeloma, Pancreas, GI, H&N and Lung Cancers.

Date: February 12–14, 2008.

Time: February 12, 2008, 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda, 5151 Pooks Hill Rd., Bethesda, MD 20814.

Contact Person: Shamala K. Srinivas, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892, 301–594–1224, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SPORE in Breast, Gynecologic, Genitourinary and Prostate Cancers.

Date: February 12–14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Caron Lyman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8119, Bethesda, MD 20892–8328, 301–451–4761, *lymanc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Application of Emerging Technologies for Cancer Research.

Date: March 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Marvin L. Salin, PhD, Scientific Review Administrator, Special

Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5677 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the National Advisory Council for Complementary and Alternative Medicine (NACCAM) meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applicants and/or contract proposals and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine.

Date: February 1, 2008.

Closed: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Open: 1 p.m. to 4:30 p.m.

Agenda: Opening remarks by the Acting Director of National Center for Complementary and Alternative Medicine, presentation of a new research initiative, and other business of the Council.

Place: National Institutes of Health, Neuroscience Building, 6001 Executive Boulevard, Conference Rooms C & D, Bethesda, MD 20892.

Contact Person: Martin H. Goldrosen, PhD, Executive Secretary, National Center for Complementary, and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594–2014.

The public comments session is scheduled from 4–4:30 p.m., but could change depending on the actual time spent on each agenda item. Each speaker wil be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Martin H. Goldrosen, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland 20892, 301–594–2014, Fax: 301–480–9970. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5 p.m. on January 30, 2008. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Martin H. Goldrosen at the address listed above up to ten calendar days (February 11, 2008) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by contacting Dr. Martin H. Goldrosen, Executive Secretary, NACCAM, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland 20892, 301–594–2014, Fax 301–480–9970, or via e-mail at *naccames@mail.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5665 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; Pathways to Independence K99/R00 Applications.

Date: November 27, 2007.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; Pathways to Independence Applications II.

Date: November 28, 2007.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 6, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5664 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Services; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: December 2–4, 2007.

Closed: December 2, 2007, 7 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personal issues.

Place: Doubletree Guests Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713

Closed: December 3, 2007 8 a.m. to 9 a.m.

Agenda: To review and evaluate programmatic and personal issues.

Place: Nat. Inst. of Environmental Health Services, Building 101, Executive Conference Room, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: December 3, 2007 9 a.m. to 12:30 p.m.

Agenda: An overview of the organization and research in the Laboratory of Respiratory Biology.

Place: Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: December 3, 2007 1 p.m. to 1:30 p.m.

Agenda: To review and evaluate programmatic and personal issues.

Place: Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Open: December 3, 2007, 1:30 p.m. to 4:25 p.m.

Agenda: An overview of the organization and research in the Laboratory of Respiratory Biology.

*Place:*Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: December 3, 2007, 4:25 p.m. 5 p.m..

Agenda: To review and evaluate programmatic and personal issues.

Place: Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed December 3, 2007, 5 p.m. to Adjournment.

Agenda: To review and evaluate programmatic and personal issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: December 4m 2007 8:30 a.m. to 1:15 p.m.

Agenda: An overview of the organization and research in the Laboratory of Respiratory Biology.

Place: Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Closed: December 4, 2007 1:15 p.m. to Adjournment.

Agenda: To review and evaluate programmatic and personal issues.

Contact Person: Perry J Blackshear, PhD, MD, Acting Scientific Director.Nat. Inst. of Environmental Health Services, South Campus, Conference Rooms 101A–C, Research Triangle Park, NC 27709.

Division of Intramural Research, National Inst. of Environmental Health Sciences, National Institutes of Health, PO Box 12233, Research Triangle Park, 27709, (919) 541–4899, *black009@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation–Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.132, NIEHS Superfund Hazardous Substances–Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 903.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: November 6, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5662 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; DNA Response to Oxidative Stress in Colon Cancer Development.

Date: November 14, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Teresa Nesbitt, PhD, DVM, Chief, Scientific Review Branch, Division of Extramural Research and Training, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–7571, *nesbittt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: November 6, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5663 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Genotypic and Phenotypic Heterogeneity in Dyslexia.

Date: December 4, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5667 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Mechanism of Transport of Secretary Vesicles.

Date: December 6, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institutes of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 3.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5671 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: December 7, 2007.

Open: 8 a.m. to 11:30 a.m.

Agenda: A report by the Scientific Director, NICHD, on the status of the NICHD Division of Intramural Research.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Room 2A48, Bethesda, MD 20892.

Closed: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Room 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD, Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892, (301) 496–2133, *rennerto@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, and hotel and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/bsd/htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5672 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Rehabilitation Research Training and Proprioceptive Deficits on Ankle Motor Adaptation.

Date: December 4, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5673 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Effects of Folate Supplementation on the Behaviors of Children with Autism.

Date: December 3, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5674 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Small Research Grants.

Date: November 20, 2007.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd, Room 824, MSC 4872, Bethesda, MD 20892–4874, (301) 594–4955, *browneri@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5675 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of Fellowship Applications.

Date: December 12, 2007.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm 3045, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Philippe Marmillot, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse, and Alcoholism, 5635 Fishers Lane, Rm 3045, Bethesda, MD 20892, 301–443–2861, marmillotp@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5676 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Mechanical Regulation of DNA Looping Kinetics.

Date: December 4, 2007.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5678 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV Vaccine Research and Design (HIVRAD) Program Review.

Date: November 26, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Arlington Crystal City, 2889 Jefferson Davis Hwy., Club Room, Arlington, VA 22202.

Contact Person: Thomas J. Palker, PhD, Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3119, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–402–8399, *palkert@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 5, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5679 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PA–07–205 Research on the Economics of Diet, Activity, and Energy Balance.

Date: December 5, 2007.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John F. Connaughton, PhD, Scientific, Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 5, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5680 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Musculoskeletal Rehabilitation Sciences Small Business.

Date: November 28, 2007.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John P. Holden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301 496–8551, *holdenjo@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Schizophrenia Genetics.

Date: November 28, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301 435–0695, *hardyan@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 BDA–J02M: Member Conflict.

Date: November 28, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Francois Boller, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 33206, MSC 7848, Bethesda, MD 20892, 301 435–1019, *bollerf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biological Sciences.

Date: November 29–30, 2007.

Time: 8 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892, (301) 435–1727, *schneidd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurotransmitters, Plasticity and Repair.

Date: November 30, 2007.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerry L. Taylor, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1175, *taylorje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation.

Date: December 5, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nitsa Rosenzweig, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7760, Bethesda, MD 20892, (301) 435–1747, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Glomerular Pilot Applications.

Date: December 10–11, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ryan G. Morris, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morris@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Dental-Related.

Date: December 13–14, 2007.

Time: 6 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: J. Terrell Hoffeld, DDS,, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781, *th88q@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Applications in Aging and Development.

Date: December 13–14, 2007.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Cathy Wedeen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, (301) 435–1191, *wedeenc@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–5666 Filed 11–15–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2007–0075]

Homeland Security Science and Technology Advisory Committee

AGENCY: Science and Technology Directorate, HSD.

ACTION: Committee Management; Notice of partially closed Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Science and Technology Advisory

Committee will meet December 04–06, 2007, at 1120 Vermont Avenue, NW., Washington, DC.

DATES: The Homeland Security Science and Technology Advisory Committee will meet December 04, 2007, from 8 a.m. to 4 p.m.; on December 05, 2007, from 8 a.m. to 4 p.m.; and on December 06, 2007, from 8 a.m. to 4 p.m. The meeting will be open to the public on December 4th from 8 a.m. to 12 p.m. The meetings on December 4th from 12 p.m. to 4 p.m., December 5th from 8 a.m. to 4 p.m., and December 6th from 8 a.m. to 4 p.m. will be closed to the public.

ADDRESSES: The meeting will be held at 1120 Vermont Avenue, NW., Washington, DC. Requests to have written material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by November 23, 2007. Send written material to Ms. Deborah Russell, Science and Technology Directorate, Department of Homeland Security, 245 Murray Drive, Bldg. 410, Washington, DC 20528. Comments must be identified by DHS–2007–0075 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: HSSTAC@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–254–6177.
- *Mail:* Ms. Deborah Russell, Science and Technology Directorate, Department of Homeland Security, 245 Murray Drive, Bldg. 410, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the Homeland Security Science and Technology Advisory Committee, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Russell, at the address above or by phone at 202–254–5739.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2).

The committee will meet for the purpose of receiving sensitive Homeland Security and classified briefings on Improvised Explosive Devices (IEDs) and will discuss the identification and location of IEDs based on experience in UK, Spain, Japan, etc.; countermeasures used in Iraq/Afghanistan and their applicability to U.S. homeland situations; psychological effects of IEDs; and the IED threat to national security.

Basis for Closure: In accordance with Section 10(d) of the Federal Advisory Committee Act, portions of the Science and Technology Advisory Committee meeting concern sensitive Homeland Security information and classified matters within the meaning of 5 U.S.C. 552b(c)(1) and (c)(9)(B) and that, accordingly, sensitive portions of the meeting dealing will be closed to the public.

Dated: November 8, 2007.

Jay M. Cohen,

Under Secretary for Science and Technology.

[FR Doc. E7–22344 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. CGD09–07–126]

Great Lakes Regional Waterways Management Forum

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: ''The Great Lakes Regional Waterways Management Forum'' will hold a meeting to discuss various waterways management issues. Potential agenda items will include navigation, ballast water regulations, waterways management, Great Lakes water levels, and discussions about the agenda for the next meeting. The meeting will be open to the public.

DATES: The meeting will be held December 10, 2007 from 1 p.m. to 5 p.m. Comments must be submitted on or before December 6, 2007 to be considered at the meeting.

ADDRESSES: The meeting will be held at the Village Inn, 751 Christina Street, Point Edward, Ontario. Any written comments and materials should be submitted to Commander (dpw-2), Ninth Coast Guard District, 1240 E. 9th Street, Room 2069, Cleveland, OH 44199.

FOR FURTHER INFORMATION CONTACT: Doug Sharp (dpw-2), Ninth Coast Guard District, OH 44199, telephone (216) 902–6070. Persons with disabilities requiring assistance to attend this meeting should contact Doug Sharp.

SUPPLEMENTARY INFORMATION: The Great Lakes Waterways Management Forum identifies and resolves waterways management issues that involve the Great Lakes region. The forum meets twice a year to assess the Great Lakes region, assign priorities to areas of concern, and identify issues for resolution.

The forum membership has identified potential agenda items for this meeting that include: navigation, ballast water regulations, waterways management, Great Lakes water levels, and discussions about the agenda for the next meeting. The Forum will also provide updates from the Canadian Coast Guard, Transport Canada, U.S. Coast Guard, and the U.S. Army Corps of Engineers on regional projects and operations.

Dated: November 6, 2007.

John E. Crowley, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District, Cleveland, Ohio.

[FR Doc. 07–5687 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Dundalk, MD; Minneapolis, MN; and St. Paul, MN

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Dundalk, MD; Minneapolis, MN; and St. Paul, MN.

DATES: TWIC enrollment in Dundalk, Minneapolis, and St. Paul will begin on November 21, 2007.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov*.

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Dundalk, MD; Minneapolis, MN; and St. Paul, MN only. Enrollment in these ports begin on November 21, 2007. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Baltimore, including those in the Port of Dundalk, MD; and Captain of the Port Zone Duluth, including those in the Ports of Minneapolis and St. Paul, MN must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic*.

Issued in Arlington, Virginia, on November 9, 2007.

Stephen Sadler,

Director, Maritime and Surface Credentialing, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E7–22422 Filed 11–15–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Availability and Public Open House Announcement for the Draft Environmental Impact Statement for Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Border Patrol, Rio Grande Valley Sector, Texas

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Availability.

SUMMARY: Customs and Border Protection (CBP) announces that a Draft Environmental Impact Statement (EIS) is available for public review and comment. Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA), CBP has prepared a Draft EIS to identify and assess the potential impacts associated with the proposed construction, maintenance, and operation of tactical infrastructure, to include pedestrian fence, access roads, and patrol roads along approximately 70 miles of the U.S./Mexico international border within the U.S. Border Patrol (USBP) Rio Grande Valley Sector, Texas (the Proposed Action).

DATES: The Draft EIS will be available for public review and comment on November 16, 2007 and all comments must be received by December 31, 2007.

A public open house will be held on December 11, 2007, at the McAllen Convention Center in McAllen, TX. A second public open house will be held on December 12, 2007, at the Brownsville Events Center in Brownsville, TX. Each public open house will be held from 4:30 p.m. to 8 p.m. Please refer to the **SUPPLEMENTARY INFORMATION** section below for more information.

ADDRESSES: Copies of the Draft EIS can be downloaded by visiting *www.BorderFenceNEPA.com*, or *https://ecso.swf.usace.army.mil/Pages/Publicreview.cfm*, or requested by emailing: *information@BorderFenceNEPA.com.* To request a hard copy of the Draft EIS, you may call toll-free 1–877–752–0420. Alternatively, written requests for information may be submitted to: Charles McGregor, U.S. Army Corps of Engineers, Engineering and Construction Support Office, 819 Taylor St., Room 3B10, Fort Worth, Texas 76102; *phone:* (817) 886–1585; and *fax:* (757) 282–7697. Hard copies of the Draft EIS can be reviewed at the McAllen Memorial Library (601 N. Main St., McAllen, TX 78501, (956) 688–3300); Speer Memorial Library (801 E. 12th St., Mission, TX 78572, (956) 580–8750); Brownsville Public Library (2600 Central Blvd., Brownsville, TX 78520, (956) 548–1055); Rio Grande City Public Library (591 E. Canales St., Rio Grande City, TX 78582, (956) 487–4389); Weslaco Public Library (525 S. Kansas Ave., Weslaco, TX 78596, (956) 968–4533); Mercedes Memorial Library (434 S. Ohio Ave., Mercedes, TX 78570, (956) 565–2371); Harlingen Public Library (410 76 Dr., Harlingen, TX 78550, (956) 216–5802); and San Benito Public Library (101 W. Rose St., San Benito, TX 78586, (956) 361–3860).

FOR FURTHER INFORMATION CONTACT: Charles McGregor, U.S. Army Corps of Engineers, Engineering and Construction Support Office, 819 Taylor St., Room 3B10, Fort Worth, Texas 76102; phone: (817) 886–1585; and fax: (757) 282–7697.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2007, CBP published a Notice of Intent to Prepare an EIS in the **Federal Register** (72 FR 54276) for the Proposed Action. This EIS is being prepared to comply with NEPA; the Council on Environmental Quality regulations in 40 CFR Parts 1500–1508; and Department of Homeland Security (DHS) Management Directive 5100.1, *Environmental Planning Program*.

The mission of CBP is to prevent terrorists and terrorist weapons from entering the U.S., while also facilitating the flow of legitimate trade and travel. In supporting CBP's mission, USBP is charged with establishing and maintaining effective control of the border of the U.S. The purpose of the Proposed Action is to provide USBP agents with the tools necessary to strengthen their control of the U.S. border between Ports of Entry in the Rio Grande Valley Sector. The Proposed Action also provides a safer work environment and enables USBP agents to enhance response time.

The Proposed Action includes the installation of tactical infrastructure in

21 sections of fence along the international border with Mexico in the vicinity of Roma, Rio Grande City, McAllen, Progresso, Mercedes, Harlingen, and Brownsville, Texas. Individual fence sections would range from approximately 1 mile to more than 13 miles in length. For much of its length, the proposed tactical infrastructure would follow the existing U.S. Section International Boundary and Water Commission levee. The tactical infrastructure would cross multiple land use types, such as agricultural, rural, suburban, and urban. Impacted parcels are both publicly and privately owned. The Proposed Action would also encroach upon portions of the Lower Rio Grande Valley National Wildlife Refuge and Texas state parks in the Rio Grande Valley.

Two alternatives for the route for the tactical infrastructure are being considered under the Proposed Action—Route A and Route B. Route A is the route initially identified by USBP Rio Grande Valley Sector as meeting its operational requirements. Route B was developed through coordination with Federal and state agencies and incorporates input received through the public scoping period. The Route B alignment continues to meet current operational requirements with less environmental impact.

In addition to Routes A and B described above, an alternative of two layers of fence, known as primary and secondary fence, is analyzed in the EIS. Under this alternative, two layers of fence would be constructed approximately 130 feet apart along the same alignment as Route B and would be most closely aligned with the fence description in the Secure Fence Act of 2006, Public Law 109–367, 120 Stat. 2638, 8 U.S.C. 1701 note, 8 U.S.C. 1103 note. This alternative would also include construction and maintenance of access and patrol roads for USBP agents. The patrol road would be between the primary and secondary fences.

Under the No Action Alternative, proposed tactical infrastructure would not be built and there would be no change in fencing, access roads, or other facilities along the U.S./Mexico international border in the proposed project locations.

Public Open Houses

CBP will hold public open houses to provide information and invite comments on the Proposed Action and the Draft EIS. A public open house will be held on December 11, 2007, at the McAllen Convention Center in McAllen, TX. A second public open house will be held on December 12, 2007, at the Brownsville Events Center in Brownsville, TX. Each public open house will be held from 4:30 p.m. to 8 p.m. Central Standard Time. Notifications of these open houses will be published in the *Brownsville Herald, Valley Morning Star, The Monitor, La Frontera,* and *El Nuevo Heraldo* one week prior to these open houses. USBP agents and Draft EIS preparers will be available during the open houses. Anyone wishing to submit comments may do so orally and/or in writing at the open houses. Comments received at the open houses will be recorded and transcribed into the public record for the meeting. Commentors must include their name and address. Spanish language translation will be provided. Those who plan to attend the public open house and will need special assistance such as sign language interpretation or other reasonable accommodation should notify the U.S. Army Corps of Engineers (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include contact information, as well as information about specific needs. Those unable to attend may submit comments as described under ''Request for Comments'' below.

Request for Comments

CBP requests public participation in the EIS process. The public may participate by attending public open houses and submitting written comments on the Draft EIS. CBP will consider all comments submitted during the public comment period, and subsequently will prepare the Final EIS. CBP will announce the availability of the Final EIS and once again give interested parties an opportunity to review the document.

When submitting comments, please include name and address, and identify comments as intended for the Rio Grande Valley Sector Draft EIS. To avoid duplication, please use only one of the following methods:

(a) Attendance and submission of comments at the Public Open House meetings to be held December 11, 2007 at the McAllen Convention Center in McAllen, TX and December 12, 2007 at the Brownsville Events Center in Brownsville, TX.

(b) Electronically through the Web site at *www.BorderFenceNEPA.com.*

(c) By e-mail to: *RGVcomments@BorderFenceNEPA.com.*

(d) By mail to: Rio Grande Valley Tactical Infrastructure EIS, c/o e^{2}M, 2751 Prosperity Avenue, Suite 200, Fairfax, Virginia 22031.

(e) By fax to: (757) 282–7697.

Comments on the Draft EIS should be submitted by December 31, 2007.

Dated: November 8, 2007.

Elaine Killoran,

Acting Assistant Commissioner, Office of Finance, Customs and Border Protection.

[FR Doc. E7–22483 Filed 11–15–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5125–N–46]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD published a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: November 8, 2007.

Mark. R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 07–5649 Filed 11–15–07; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We invite the public to comment on the following applications to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before December 17, 2007.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Chief, Endangered Species, Ecological Services, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503–231–2063; fax: 503–231–6243). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Linda Belluomini, Fish and Wildlife Biologist, at the above Portland address (telephone: 503–231–2063; fax: 503–231–6243).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service (''we'') solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–043638

Applicant: Directorate of Public Works, U.S. Army, Schofield Barracks, Hawaii.

The permittee requests an amendment to take (capture and release, band, collect biological samples, and conduct nest searches) the Oahu elepaio (*Chasiempis sandwichensis ibidis*) in conjunction with genetic and disease research, and life history studies, on the Island of Oahu in the State of Hawaii, for the purpose of enhancing its survival.

Permit No. TE–146768

Applicant: Arleone Dibben-Young, Kaunakakai, Molokai, Hawaii.

The permittee requests an amendment to take (collect biological samples) the Hawaiian coot (*Fulica americana alai*) in conjunction with avian influenza research on the Island of Molokai in the State of Hawaii for the purpose of enhancing its survival.

Public Review of Comments

We solicit public review and comment on these recovery permit applications. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: September 24, 2007.

Renne R. Lohoefener,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E7–22414 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–330–08–1232–EA, AZ–SRP–330–07–01 and AZ–SRP–330–07–02]

Temporary Closure of Selected Public Lands in La Paz County, AZ

AGENCY: Bureau of Land Management, DOI.

ACTION: Temporary Closure of Selected Public Lands in La Paz County, Arizona, during the operation of the 2008 Parker 250 and Parker 425 Desert Races.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office announces the temporary closure of selected public lands under its administration in La Paz County, Arizona. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the permitted running of the Best in the Desert 2008 Parker 250, and 2008 Blue Water Resort and Casino Parker 425 Desert Races. Areas subject to this closure include all public land; including county maintained roads and highways located on public lands that are located within two miles of the designated course. The race course and closure areas are described in the **SUPPLEMENTARY INFORMATION** section of this notice and maps of the designated race course are maintained in the Bureau of Land Management Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, AZ 86406.

EVENT DATES: The Parker 250 on January 5, 2008, and the Parker 425 on February 2, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Dodson, Field Staff Ranger, BLM Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, (928) 505–1200.

SUPPLEMENTARY INFORMATION:

Description of Race Course Closed Area: Beginning at the eastern boundary of the Colorado River Indian Tribe (CRIT) Reservation, the race course closed area runs east along Shea Road, then east into Osborne Wash on to the Parker-Swansea Road to the Central Arizona Project Canal (CAP), then north on the west side of the CAP Canal, crossing the canal on the county-maintained road, running northeast into Mineral Wash Canyon, then southeast on the county-maintained road, through the four-corners intersection to the Midway (Pit) intersection, then east on Transmission Pass Road, through State Trust Land located in Butler Valley, turning north into Cunningham Wash to North Tank; continuing back south to Transmission Pass Road and east (reentering public land) within two miles of Alamo Dam Road. The course turns south and west onto the wooden power line road, onto the State Trust Land in Butler Valley, turning southwest into Cunningham Wash to the Graham Well, intersecting Butler Valley Road, then north and west on the county-maintained road to the ''Bouse Y'' intersection, two miles north of Bouse, Arizona. The course proceeds north, paralleling the Bouse-Swansea Road to the Midway (Pit) intersection, then west along the north boundary (powerline) road of the East Cactus Plain Wilderness Area to Parker-Swansea Road. The course turns west into Osborne Wash crossing the CAP Canal, along the north boundary of the Cactus Plain Wilderness Study Area; it continues west staying in Osborne Wash and crossing Shea Road along the southern boundary of Gibraltar Wilderness, rejoining Osborne Wash to the CRIT Reservation boundary.

Times of the Temporary Land Closure: The Parker 250 Desert Race closure is in effect from 2 p.m. (MST) on Friday, January 4, 2008, through 6 p.m. (MST) on Saturday, January 5, 2008. The Blue Water Resort and Casino Parker 425 Desert Race closure is in effect from 2 p.m. (MST) on Friday,

February 1, 2008, through 11:59 p.m. (MST) on Saturday, February 2, 2008.

Prohibited Acts: The following acts are prohibited during the temporary land closure:

1. Being present on, or driving on, the designated race course. Spectators may not be within 200 feet of the designated race course. This does not apply to race participants, race officials nor emergency vehicles authorized by or operated by local, State or Federal Government agencies. Emergency medical response shall only be conducted by personnel and vehicles operating under the guidance of La Paz County Emergency Medical Services (EMS) and Fire, or the Arizona Department of Public Safety (DPS), or the Bureau of Land Management (BLM).

2. Vehicle parking or stopping in areas affected by the closure, except where such is specifically allowed (designated spectator areas).

3. Camping in any area, except in the designated spectator areas.

4. Discharge of firearms.

5. Possession or use of any fireworks.

6. Cutting or collecting firewood of any kind, including dead and down wood or other vegetative material.

7. Operating any vehicle (except registered race vehicles), including off-highway vehicles, not registered and equipped for street and highway operation.

8. Operating any vehicle in the area of the closure at a speed of more than 35 mph. This does not apply to registered race vehicles during the race, while on the designated race course.

9. Failure to obey any official sign posted by the Bureau of Land Management, La Paz County, or the race promoter.

10. Parking any vehicle in a manner that obstructs or impedes normal traffic movement.

11. Failure to obey any person authorized to direct traffic, including law enforcement officers, BLM officials and designated race officials.

12. Failure to observe Spectator Area quiet hours of 10 p.m. to 6 a.m.

13. Failure to keep campsite or race viewing site free of trash and litter.

14. Allowing any pet or other animal to be unrestrained by a leash of not more than 6 feet in length.

The above restrictions do not apply to emergency vehicles owned by the United States, the State of Arizona, or La Paz County. Authority for closure of public lands is found in 43 CFR 8340, Subpart 8341; 43 CFR 8360, Subpart 8364.1; and 43 CFR 2930. Persons who violate this closure order are subject to arrest, and upon conviction may be fined not more than $100,000 and/or imprisoned for not more than 12 months.

Steven Politsch,

Field Manager, Lake Havasu Field Office.

[FR Doc. E7–22390 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability (NOA) of the Final Environmental Impact Statement (FEIS) for the Bald Mountain Ski Resort Master Development Plan EIS

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et. seq.*, as amended, and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et. seq.*, as amended, the Bureau of Land Management (BLM), Shoshone Field Office, announces the availability of the Final Environmental Impact Statement (FEIS) for the Bald Mountain Ski Resort Master Development Plan EIS. The FEIS analyzes and discloses the effects of the updated Bald Mountain Ski Area Master Development Plan and 40-year term ski permit application for the Bald Mountain Ski Area near Ketchum, Idaho.

DATES: The FEIS will be available for public review for 30 calendar days from the date of this publication, which coincides with the NOA published in the **Federal Register** by the Environmental Protection Agency (EPA). Following this 30 day period, the Bureau of Land Management (BLM) and U.S. Forest Service will each issue a separate Record of Decision, which will identify the Responsible Officials' Selected Alternative and discuss the rationale for their decisions.

ADDRESSES: A copy of the FEIS was sent to affected Federal, State, and local government agencies and interested parties. The document is also available electronically on the following Web site: *http://www.fs.fed.us/r4/sawtooth/projects.* Copies of the Final EIS will be available for public inspection at the following locations: Ketchum Ranger District, 206 Sun Valley Road, Ketchum, ID. 83340, Business Hours 8:30 a.m.–5 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Miczulski, Winter Sports Manager at the Ketchum Ranger District; P.O. Box 2356, Ketchum, ID. 83340; or phone at (208)–622–5371.

SUPPLEMENTARY INFORMATION: Sun Valley Company (SVC) has requested a new 40-year term ski area permit for the Bald Mountain Ski Resort. The existing ski area permit, which was issued in December 1977, expires December 2007. To be valid, a ski area permit must have an approved Master Development Plan (MDP), which is prepared by the permit holder and encompasses the entire winter sports resort envisioned for development and authorization by the permit. Upon acceptance by the Authorized Officers, the MDP becomes part of the ski area permit. The EIS analyzes the effects of the proposed action and alternatives. The agencies give notice of the NEPA analysis and decision making process on the proposal so interested and affected members of the public may participate in and contribute to the final decision.

A 1989 MDP currently guides the Forest Service and BLM in their administration of the Special Use Permit (SUP) for the ski area. A majority of the actions described in the 1989 MDP have been implemented. Given the age and status of the 1989 MDP, the Forest Service, BLM and SVC determined that an updated plan would be appropriate at this time.

In August 2005, the Sun Valley Master Plan (2005 Master Plan) was produced and submitted to the Forest Service and BLM. The 2005 Master Plan was accepted at that time, and the Phase 1 projects on public lands were advanced for site-specific review and analysis under requirements of NEPA.

A Draft Environmental Impact Statement (DEIS) for the Phase 1 projects of the 2005 Master Plan was released for public comment in February 2007. The comment period on the DEIS extended through April 9, 2007, eliciting ninety-three comment letters from individuals, organizations, and public agencies. Major themes of the letters included comments relating to the proposal to construct a trail on Guyer Ridge (and associated impacts on the visual environment), installation of additional snowmaking infrastructure (and associated impacts on the acoustic environment), as well as effects to recreation resources associated with trail construction, installation of snowmaking machinery, and seasonal construction of a terrain park on the Warm Springs side of the ski area. The Agencies formally addressed comments in the ''Response to Comments on the DEIS'' which is included with the FEIS. In addition, some comments warranted clarifications and factual changes in the

FEIS; however, none of these changes or clarifications altered the effects determinations disclosed in the DEIS. Some of these changes and clarifications include: quantification of earthen material proposed to be moved for development of the Guyer Ridge trail; a more thorough description of the remodeling plans for the Roundhouse Restaurant; information on avalanche danger on Guyer Ridge under Alternative 2; and clarifications concerning noise and light impacts due to construction and grooming activities on Guyer Ridge.

Purpose and Need for Action: The purpose and need for the proposed Master Development Plan (MDP) is to update the 1989 MDP to reflect current conditions and needs at the ski resort. Most of the improvements described in the 1989 MDP have been implemented. In addition, new ski area technologies, updated land management plans, and changes in the environment have emerged during this time, which warrant consideration in an updated MDP.

Proposed Action: SVC has largely implemented the 1989 MDP. The 2005 MDP represents a logical extension of the previously approved and completed projects, and is separated into three phases. Phase 1 projects are designed to enhance recreational opportunities on Bald Mountain by responding to the constantly evolving mountain sports industry while addressing the goals and objectives of the Sawtooth Forest Plan and the BLM Sun Valley Management Framework Plan. The Proposed Action includes: development of new ski trails both within and outside of the current permit boundary, installation of additional snowmaking machinery, modification of existing ski runs, installation of the River Run Gondola, removal of the Exhibition chairlift, and modifications to the Roundhouse Restaurant. A Vegetation Management Plan (VMP) was also analyzed concurrently with the DEIS. The VMP specified treatments to ensure long-term health of vegetation on Bald Mountain.

Alternatives Identified: Three alternatives are analyzed in the FEIS. Alternative 1—No Action would result in the existing MDP not being updated. The SUP would be renewed in 2007 and the current MDP would be made part of it. Under Alternative 2—the Proposed Action—the MDP as submitted by SVC would be attached to a new ski area permit. Alternative 3 is an alternative which meets the purpose and need to update the MDP, but varies from the actions originally submitted by SVC in response to issues raised by the public.

Preferred Alternative: The Preferred Alternative is a slightly modified Alternative 3, as described in the DEIS and FEIS. The Preferred Alternative consists of a realigned western boundary of the SUP addition for the Guyer Ridge trail included in Alternative 3. The western boundary would be repositioned in a straight line to connect with the western bends of the proposed Guyer Ridge trail. All other elements of Alternative 3, as described in the DEIS, remain in the Preferred Alternative. These include the following: installation of a new gondola, removal of the Exhibition chairlift, adjustment of the SUP boundary to include new ski trails, development of new ski trails and modification of existing ski runs within the current permit boundary, installation of additional snowmaking machinery, implementation of a non-significant Forest Plan Amendment for scenery resources, modifications to the Roundhouse Restaurant, and implementation of the VMP. The Preferred Alternative would reduce the acreage added to the ski area's SUP, yet still allow the permittee to glade Guyer Ridge as proposed in Alternative 3. In addition, this modification would provide the ski area the flexibility to manage the terrain similar to other in-bounds portions of the ski area.

Dated: August 16, 2007.

Bill Baker,

District Manager, Twin Falls District, Bureau of Land Management.

[FR Doc. E7–22502 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 320 7122 EO 7979]

Notice of Extension for the Final Environmental Impact Statement (FEIS) for the Smoky Canyon Mine, Panels F and G

AGENCY: DOI Bureau of Land Management (BLM), Lead Agency; USDA Forest Service (FS), Co-lead Agency; and the State of Idaho, Idaho Department of Environmental Quality, Cooperating Agency.

ACTION: Notice of Extension for the Final Environmental Impact Statement for the Smoky Canyon Mine, Panels F and G Mine Expansion Project.

SUMMARY: The Bureau of Land Management (BLM) announces an extenion of the mandatory 30-day waiting period prior to releasing the Record of Decision (ROD) for the Smoky Canyon Mine, Panels F and G Mine Expansion Project. The original availability notice, issued October 26, 2007, provided for a 30-day waiting period prior to the release of the ROD. The BLM is extending this period until December 26, 2007.

DATES: The FEIS is now available for public review. The BLM Record of Decision will be released no sooner than December 26, 2007—60 days after publication of the original Notice of Availability of the FEIS in the **Federal Register** by the Environmental Protection Agency.

ADDRESSES: The FEIS will be available in limited quantities at the Bureau of Land Management, Pocatello Field Office, 4350 Cliffs Drive, Pocatello, Idaho 83204, phone (208) 478–6340 and the Caribou-Targhee National Forest, Soda Springs Ranger District, 410 E. Hooper Avenue, Soda Springs, Idaho 83276, phone (208) 547–4356. It will also be available on the BLM Web site at: *http://www.blm.gov/id/st/en/fo/pocatello/programs/planning/smoky_canyon_mine.html* and the Caribou-Targhee National Forest Web site at: *http://www.fs.fed.us/r4/caribou-targhee/phosphate.*

FOR FURTHER INFORMATION CONTACT: Bill Stout, Bureau of Land Management, phone (208) 478–6340; or Jeff Jones, Caribou-Targhee National Forest, phone (208) 236–7572.

SUPPLEMENTARY INFORMATION: The original Notice of Availability was published on October 26, 2007, and initiated a mandatory 30-day waiting period prior to releasing the ROD. Since this publication the BLM has received a number of requests from the public to extend the required 30-day waiting period. The FEIS, in exploring the effects of the mining operation, is lengthy and complex. Additional time will allow for increased public awareness of the proposed decision. To honor these requests the BLM has decided to extend the waiting period for an additional 30 days, to end on December 26, 2007.

Dated: November 2, 2007.

Joe Kraayenbrink,

District Manager, Idaho Falls District, Bureau of Land Management.

[FR Doc. 07–5684 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–XP–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Arizona Resource Advisory Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC), will meet on December 6, 2007, in Phoenix, Arizona, at the BLM Arizona State Office, One North Central Avenue, 8th floor. It will begin at 8 a.m. and conclude at 4:30 p.m. Morning agenda items include: Review of the September 6, 2007, meeting minutes for RAC and Recreation Resource Advisory Council (RRAC) business; BLM State Director's update on statewide issues; presentations on: BLM Energy Corridors in Arizona, BLM Recreation Webpage Redesign, BLM Route Evaluation and Designation Process; and Recreational Shooting on Public Lands; review and discussion of the 2008 RAC Annual Work Plan; and, reports by RAC working groups. A public comment period will be provided at 11:30 a.m. on December 6, 2007, for any interested publics who wish to address the Council on BLM programs and business.

Under the Federal Lands Recreation Enhancement Act, the RAC has been designated the RRAC, and has the authority to review all BLM and Forest Service (FS) recreation fee proposals in Arizona. The afternoon meeting agenda on December 6, will include discussion and review of the Recreation Enhancement Act (REA) Working Group Report, the Fiscal Year 2008 quarterly schedule for BLM and FS recreation fee proposals, and proposed modifications to the RRAC protocol, business cycle, and fee proposal guidelines.

After completing their RRAC business, the BLM RAC will discuss future meetings and locations.

DATES: *Effective Date:* December 6, 2007.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, 602–417–9504.

Helen M. Hankins,

Acting State Director.

[FR Doc. E7–22435 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM220–1430 EU; NM–114188 and NM–117236]

Direct Sale of Public Land in San Miguel County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes direct (non-competitive) sales of two parcels of public land, containing 1.07 acres and 1.04 acres located in San Miguel County, New Mexico. The described public land has been examined and through the public-supported land use planning process has been determined to be suitable for disposal by direct sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), as amended, at no less than the appraised fair market value. These sales will resolve two inadvertent trespasses on public land. An appraisal of the subject parcels fair market value is being prepared and when completed will be available for review at the BLM's Taos Field Office at the address stated below. Upon the completion and approval of the appraisal report, a subsequent notice will be published in the local newspaper specifying the fair market value.

DATES: Interested parties may submit comments to the BLM Taos Field Office Manager at the address below. Comments must be received by not later than December 31, 2007. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

ADDRESSES: Address all written comments concerning this Notice to Sam DesGeorges, Taos Field Office Manager, 226 Cruz Alta Road, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Francina Martinez, Realty Specialist at the above address or (505) 758–8851.

SUPPLEMENTARY INFORMATION: The following described public land in San Miguel County, New Mexico has been determined to be suitable for sale at not less than fair market value under section 203 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750, 43 U.S.C. 1713 and 1719). The proposed sales would resolve two inadvertent trespasses upon the land. It been determined that resource values will not be affected by the disposal of these two parcels of public land.

The parcels proposed for sale are described as:

New Mexico Principal Meridian

San Miguel County, NM

T. 13 N., R. 14 E.

Section 10, lots 15 & 18.

Lot 15 containing 1.07 acres is proposed to be sold to Lila Cano and Lot 18 containing 1.04 acres is proposed to be sold to Los Pueblos de San Miguel del Bado Community Council.

The patents, when issued, will contain a reservation to the United States for ditches and canals under the Act of March 30, 1890 and a reservation for all minerals.

The two parcels are being offered by direct sale to Lila Cano (NM–114188) and to Los Pueblos de San Miguel del Bado Community Council (NM–117236) of San Miguel County, New Mexico, based on historic use and added improvements. Both of the parcels of land have been used, one as a residence and the other as a school yard with a portion of a school located on it. Failure or refusal by Lila Cano and/or Los Pueblos de San Miguel del Bado Community Council to submit the required fair market appraisal amount within 180 days of the sale of the land will constitute a waiver of this preference consideration and this land may be offered for sale on a competitive or modified competitive basis.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the general mining laws. The segregation will end upon issuance of patents or 270 days from the date of publication, whichever occurs first.

Comments must be received by the BLM Taos Field Manager, Taos Field Office, at the address stated above, on or before the date stated above. Only written comments will be accepted. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the Taos Field Manager, who may sustain, vacate or modify this realty action. In the absence of any objects, or adverse comments, this proposed realty action will become final determination of the Department of the Interior.

Dated: November 9, 2007.

Sam DesGeorges,

Taos Field Office Manager.

[FR Doc. E7–22438 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–OW–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Change in Discount Rate for Water Resources Planning

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Change.

SUMMARY: The Water Resources Planning Act of 1965 and the Water Resources Development Act of 1974 require an annual determination of a discount rate for Federal water resources planning. The discount rate for Federal water resources planning for fiscal year 2008 is 4.875 percent. Discounting is to be used to convert future monetary values to present values.

DATES: This discount rate is to be used for the period October 1, 2007, through and including September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Sandra Simons, Contract Services Office, Denver, Colorado 80225; telephone: 303–445–2902.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 4.875 percent for fiscal year 2008.

This rate has been computed in accordance with Section 80(a), Pub. L. 93–251 (88 Stat. 34) and 18 CFR 704.39, which: (1) Specify that the rate shall be based upon the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity (average yield is rounded to nearest one-eighth percent); and (2) provide that the rate shall not be raised or lowered more than one-quarter of 1 percent for any year. The Treasury Department calculated the specified average to be 4.9229 percent. This average value is then rounded to the nearest one-eighth of a point, resulting in 4.875 percent. The rate therefore remains unchanged from fiscal year 2007.

The rate of 4.875 percent shall be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs or otherwise converting benefits and costs to a common-time basis.

Dated: October 24, 2007.

Roseann Gonzales,

Director, Office of Program and Policy Services, Denver Office.

[FR Doc. E7–22427 Filed 11–15–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on October 30, 2007, a proposed consent decree in *United States* v. *Belle Tire Distr., Inc., et al.,* No. 06cv0816, was lodged with the United States District Court for the Western District of Michigan.

In this cost recovery action brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, the United States sought recovery of unreimbursed past response costs and prejudgment interest incurred by the United States Environmental Protection Agency for a removal action at the Carl's Tire Retreading Site near Grown in Grand Traverse County, Michigan. Under the proposed consent decree, ten defendants that each contributed less than 2% of the total waste to the Site will pay a total of $219,425.24 to the Hazardous Substance Superfund.

The Department of Justice will accept comments relating to the proposed consent decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and mailed either electronically to *pubcomment-ees.enrd@usdoj.gov* or in hard copy to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. Comments should refer to *United States* v. *Belle Tire Distr., Inc., et al.,* Case No. 06cv0816 (W.D. Mich.) and D.J. Reference No. 90–11–09026.

The proposed consent decree may be examined at: (1) The Office of the United States Attorney for the Western District of Michigan, 330 Iona Avenue, Suite 501, Grand Rapids, Michigan 49503, (616) 456–2404; and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Steven P. Kaiser (312–353–3804)). During the comment period, the proposed consent decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decree.html.* A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please refer to the referenced case and D.J. Reference No. 90–11–3–09026, and enclose a check in the amount of $6.50 for the consent decree (26 pages at 25 cents per page reproduction costs), made payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–5692 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 31, 2007, a proposed Consent Decree in *United States* v. *Hercules Incorporated,* Civil Action No. 2:07cv87 was lodged with the United States District Court for the Northern District of West Virginia.

In this action the United States sought to recover costs incurred in responding to the release or threatened release of hazardous substances into the environment at or from the Allegany Ballistics Lab Site, a U.S. Navy-owned facility in Mineral County, West Virginia. The Consent Decree requires that Hercules Incorporated pay the United States $12.95 million. In exchange, Hercules will receive contribution protection and a release from liability for additional environmental cleanup costs or cleanup work, subject to certain exceptions and limitations.

The Department of Justice will receive comments relating to the Consent

Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Hercules Incorporated, D.J. Ref. 90–11–3–07827.*

The Consent Decree may be examined at: (1) The Office of the United States Attorney, 1125 Chapline Street, Suite 3000, Wheeling, West Virginia; (2) U.S. EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania; (3) the ABL Information Repository at the Fort Ashby Public Library, IGA Plaza, Lincoln Street, Fort Ashby, West Virginia; or (4) the ABL Information Repository at the La Vale Public Library, 815 National Highway, La Vale, Maryland. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, to *http:/www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20041–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–5694 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act

Pursuant to 28 CFR § 507 notice is hereby given that on November 2, 2007, a proposed Consent Decree in the case *United States* v. *Honeywell International Inc.,* Civil Action No. 07–81036 (Civ-Zloch), was lodged with the United States District Court for the Southern District of Florida.

In this action, under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606 and 9607, the United States sought injunctive relief and recovery of response costs to remedy conditions in connection with the release or threatened release of hazardous substances into the environment at the Solitron Devices Superfund alternative Site located in Riviera Beach, Florida (''the Site'').

The proposed consent decree requires defendant Honeywell International, Inc. to fully perform the final remedy for the Site and Pay all future response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment.ess.enrd@usdoj.gov* or mailed to U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *Honeywell International Inc.,* D.J. Ref. 90–11–2–06699/2.

The proposed Consent Decree may be examined at U.S. Environmental Protection Agency, Region IV, 61 Forsythe Street Atlanta, Georgia, 30303. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.*

A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing Tonia Fleetwood at fax no. (202) 514–0097 (phone confirmation number (202) 514–1547) or by e-mailing Tonia Fleetwood at *tonia.fleetwood@usdoj.gov.* In requesting a copy of the Consent Decree from the Consent Decree Library, please enclose a check in the amount of $52.50 (25 cents per page reproduction cost × 210 pages) payable to the U.S. Treasury. In requesting a copy of the Consent Decree, exclusive of exhibits, please enclose a check in the amount of $20.25 (25 cents per page reproduction cost × 81 pages) payable to the U.S. Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 07–5691 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 31, 2007, a proposed Consent Decree in *United States* v. *Honeywell International, Inc., et al.*, Civil Action No. 06–00387–MCE–JFM, was lodged with the United States District Court for the Eastern District of California.

In this action the United States sought reimbursement of response costs from Honeywell International, Inc., Alpheus Kaplan and Nehemiah Development Company for costs incurred by EPA at or in connection with the Central Eureka Mine Superfund Site in Amador County, California. The Consent Decree will settle claims against defendants Alpheus Kaplan and Nehemiah Development Company and certain third-party defendants. Pursuant to the Consent Decree, Kaplan/Nehemiah agree to pay the sum of $600,000 and six settling third party defendants agree to pay $121,000 for past response costs incurred at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment.ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Honeywell International, Inc., et al.*, D.J. Ref. 90–11–3–1692/1.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of California, 501 I Street, Sacramento, California 95814, and at U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20004–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.75 (25 cents per page reproduction cost) payable to the

U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–5696 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on October 31, 2007, a proposed Consent Decree in *United States of America* v. *The Kansas City Southern Ry. Co.,* Civil Action No. 1:07–CV–1793, was lodged with the United States District Court for the Western District of Louisiana.

In this action the United States sought injunctive relief and recovery of costs under Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') sections 106(a) and 107, 42 U.S.C. 9606(a) and 9607, in connection with the release or threatened release of hazardous substances into the environment at the Ruston Foundry Superfund Site located at 1010 Bogan Street in Alexandria, Rapids Parish, Louisiana (''the Site''). The Consent Decree resolves the United States' claims in connection with the Site against The Kansas City Southern Railway Co. (''KCSR'') under CERCLA sections 106 and 107, 42 U.S.C. 9606 & 9607. Under the proposed Consent Decree, KCSR will (1) perform the remedy selected by the United States Environmental Protection Agency for the Site; (2) pay $750,000 to the United States for response costs incurred through October 30, 2006; and (3) pay all response costs incurred by the United States after October 30, 2006.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *The Kansas City Southern Ry. Co.,* D.J. Ref. 90–11–2–08002.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Louisiana, 800 Lafayette Street, Suite 2200, Lafayette, LA 70501, and at U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $71.75 (25 cents per page reproduction cost) for a complete copy of the Consent Decree with all exhibits or $14.25 (25 cents per page reproduction cost) for a copy of the Consent Decree exclusive of exhibits. If the request is made by e-mail or fax, please forward a check in the appropriate amount to the Consent Decree Library at the stated address. The check should be payable to the U.S. Treasury.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–5695 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Kenneth L. Mims and Leonard R. Cannon AKA Robby Cannon,* Civil No. 2:07–cv–03624–PMD, was lodged with the United States District Court for the District of South Carolina on November 8, 2007.

This proposed Consent Decree concerns a complaint filed by the United States against Kenneth L. Mims and Leonard R. Cannon AKA Robby Cannon, pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief and impose civil penalties against the Defendants for violating the Clean Water Act by discharging fill material without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to pay a civil penalty. In addition, Defendants have agreed to a restoration plan which includes removing the sediment material deposited by the unpermitted dredging.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Emery Clark, Assistant United States Attorney, United States Attorney's Office, Wachovia Building, Suite 500, 1441 Main Street, Columbia, South Carolina 29201, and refer to *United States* v. *Kenneth L. Mims and Leonard R. Cannon AKA Robby Cannon,* United States District Court for the District of South Carolina, Civil No. 2:07–cv–03624–PMD.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, 901 Richland Lane, Columbia, South Carolina. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/Consent_Decrees.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 07–5690 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of First Amendment To Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'')

Notice is hereby given that on October 30, 2007, a proposed First Amendment to Consent Decree in *United States* v. *Stauffer Management Company LLC and Bayer CropScience Inc.,* Civil Action No. 8:05–cv–1024, was lodged with the United States District Court for the Middle District of Florida.

The proposed First Amendment to Consent Decree implements a modification to the CERCLA remedial action at the Stauffer Chemical Superfund Site in Tarpon Springs, Pinellas County, Florida (the ''Site'') adopted by the U.S. Environmental Protection Agency through an Explanation of Significant Differences to the July 1998 Record of Decision with respect to Operable Unit 1 (Soils) at the Site. The remedy originally selected by EPA called for in-situ stabilization of contaminated sediments in wastewater ponds at the Site, using a cement slurry wall. During testing for the slurry wall, a reaction occurred between residual elemental phosphorus in the ponds and the slurry wall cement, resulting in a

fire in the test area. In response, EPA determined that a cut off wall should be substituted for the in-situ stabilization approach to the wastewater ponds. The Amendment modifies the original Consent Decree to ensure that this remedy modification is enforceable.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the First Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Stauffer Management Company LLC and Bayer CropScience Inc.,* D.J. Ref. 90–11–2–1227/3.

The First Amendment to Consent Decree may be examined at the Office of the United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602, and at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8960. During the public comment period, the First Amendment to Consent Decree, may also be examined on the following Department of Justice Web Site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the First Amendment to Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $3.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–5693 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 31, 2007 and published in the **Federal Register** on August 9, 2007, (72 FR 44859), Almac Clinical Services Inc., (ACSI), 2661 Audubon Road, Audubon, Pennsylvania 19403, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Oxycodone (9143)	II
Fentanyl (9801)	II

The company plans to import small quantities of the listed controlled substances in dosage form to conduct clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Almac Clinical Services Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Almac Clinical Services Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant, Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22512 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2007, and published in the **Federal Register** on July 24, 2007, (72 FR 40331), American Radiolabeled Chemical, Inc., 101 Arc Drive, St. Louis, Missouri 63146, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Gamma hydroxybutyric acid (2010)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Dimethyltryptamine (7435)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Metazocine (9240)	II

Drug	Schedule
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Fentanyl (9801)	II

The company plans to manufacture small quantities of the listed controlled substances as radiolabeled compounds for biochemical research.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of American Radiolabeled Chemical, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated American Radiolabeled Chemical, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22471 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36728), Amri Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Lisdexamfetamine (1205), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance in bulk for sales to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Amri Rensselaer, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Amri Rensselaer, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22473 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2007, and published in the **Federal Register** on July 24, 2007, (72 FR 40331–40332), Applied Science Labs, Division of Alltech Associates Inc., 2701 Carolean Industrial Drive, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-n)-propylthiophenethylamine (2C-T-7) (7348)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
2-5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Alpha-methyltryptamine (AMT) (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I

Drug	Schedule
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-methoxy-N-,N-diisopropyltryptamine(5-MeO-DIPT) (7439)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1[1-(2 Thienyl)cyclohexyl]piperidine (7470)	I
1-(1-Phenylcyclohexyl)pyrrolidine (PCPy) (7458)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Methamphetamine (1105)	II
1-Phenylcylohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Meperidine intermediate-B (9233)	II
Noroxymorphone (9668)	II

The company plans to manufacture high purity drug standards used for analytical application only in clinical, toxicological, and forensic laboratories.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Applied Science Labs to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Applied Science Labs to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22466 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on May 17, 2007, Aptuit, 10245 Hickman Mills Drive, Kansas City, Missouri 64137, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Marihuana (7360), a basic class of controlled substance listed in schedule I.

The company plans to import a finished pharmaceutical product containing cannabis extracts in dosage form for packaging for a clinical trial study.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than December 17, 2007.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR § 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22491 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 13, 2007, Archimica, Inc., 2460 W. Bennett Street, Springfield, Missouri 65807–1229, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of

the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Methadone Intermediate (9254)	II

The company plans to manufacture the listed controlled substances in bulk for research purposes, and sale to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than January 15, 2008.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22519 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36728), Austin Pharma LLC, 811 Paloma Drive, Suite A, Round Rock, Texas 78664, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Alphamethadol (9605)	I
Methadone (9250)	II
Methadone Intermediate (9254)	II
Levo-alphacetylmethadol (9648)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

In reference to drug code 7360 (Marihuana), the company plans to bulk manufacture cannabidiol as a synthetic intermediate. This controlled substance will be further synthesized to bulk manufacture a synthetic THC (7370). No other activity for this drug code is authorized for this registration.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Austin Pharma LLC to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Austin Pharma LLC to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22463 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 16, 2007 and published in the **Federal Register** on August 27, 2007, (72 FR 49018), Boehringer Ingelheim Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance to bulk manufacture amphetamine.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Boehringer Ingelheim Chemicals, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Boehringer Ingelheim Chemicals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22499 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36728), Boehringer Ingelheim Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Lisdexamfetamine (1205), a basic class of controlled substance listed in schedule II.

The company plans to qualify as a bulk manufacturer of the above listed controlled substance.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Boehringer Ingelheim Chemicals, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Boehringer Ingelheim Chemicals, Inc. to ensure that the company's registration is consistent with the public interest. The

investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: October 31, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22521 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 3, 2007, (72 FR 36481), Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Codeine (9050), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance for sale as an intermediate to other opiates and supply as API to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex Charles City, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22464 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 7, 2007, and published in the **Federal Register** on June 20, 2007, (72 FR 34039–34040), Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Hydromorphone (9150), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex Charles City, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22513 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36729), Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance for sale as an intermediate to generic drug customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex Charles City, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22517 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 31, 2007, and published in the **Federal Register** on August 9, 2007, (72 FR 44860), Cambrex North Brunswick, Inc., Technology Centre of New Jersey, 661 Highway One, North Brunswick, New Jersey 08902, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk

manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
N-Ethylamphetamine (1475)	I
Tetrahydrocannabinols (7370)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Phenylacetone (8501)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex North Brunswick, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cambrex North Brunswick, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22468 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 6, 2007, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to utilize small quantities of the listed controlled substance in the preparation of analytical standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than January 15, 2008.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22505 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 16, 2007, Cody Laboratories, 601 Yellowstone Avenue, Cody, Wyoming 82414, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Codeine (9050)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The company plans on manufacturing the listed controlled substances in bulk for sale to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than January 15, 2008.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22515 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 3, 2007, (72 FR 36481), Dade Behring, Inc., 100 GBC Drive, MS514, Post Office Box 6101, Attention: RA/GS, Newark, Delaware 19714–6101, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Benzoylecgonine (9180)	II
Morphine (9300)	II

The company plans to produce the listed controlled substances in bulk to be used in the manufacture of reagents and drug calibrator/controls for DEA exempt products.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Dade Behring, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Dade Behring, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22470 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36729), Dade Behring Inc., Regulatory Affairs, Quality Systems, 20400 Mariani Avenue, Cupertino, California 95014, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Benzoylecgonine (9180)	II
Morphine (9300)	II

The company plans to produce the listed controlled substances in bulk to be used in the manufacture of reagents and drug calibrator/controls for DEA exempt products.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Dade Behring, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Dade Behring, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22477 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on June 22, 2007, Fisher Clinical Services Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the listed substance for analytical research and clinical trials.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than December 17, 2007.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR § 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion

Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22486 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on August 23, 2007, Formulation Technologies LLC., 11400 Burnet Road, Suite 4010, Austin, Texas 78758, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Fentanyl (9801), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for clinical trials, research, analytical purposes, and distribution to its customers.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than December 17, 2007.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22496 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36727–36728), Aldrich Chemical Company, Inc., DBA Isotec, 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603)	I
Normethadone (9635)	I
Norpipanone (9636)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk, (non-dosageforms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to manufacture small quantities of the listed controlled substances to produce isotope labeled standards for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Aldrich Chemical Company, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Aldrich Chemical Company, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22475 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on October 5, 2007, JFC Technologies LLC., 100 West Main Street, P.O. Box 669, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Meperidine intermediate-B (9233), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for the production of controlled substances for clinical trials, research, analytical purposes, and distribution to its customers.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA. 22152; and must be filed no later than December 17, 2007.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22488 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 24, 2007, JFC Technologies, LLC., 100 W. Main Street, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Diphenoxylate (9170)	II
Hydrocodone (9193)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than January 15, 2008.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22520 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 3, 2007, (72 FR 36482), Johnson Matthey Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Cocaine (9041)	II
Ecgonine (9180)	II

The company plans on producing cocaine for sale to its customers, who are final dosage manufacturers. The ecgonine is formed during the manufacturing process for cocaine.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Johnson Matthey Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22478 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36727), Abbott Laboratories, DBA Knoll Pharmaceutical Company, 30 North Jefferson Road, Whippany, New Jersey 07981, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The company plans to manufacture bulk product and dosage units for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Abbott Laboratories to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Abbott Laboratories to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22476 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36729–36730), Lin Zhi International Inc., 687 North Pastoria Avenue, Sunnyvale, California 94085, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxymethamphetamine (7405)	I
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Dextropropoxyphene, bulk, (9273)	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Lin Zhi International, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Lin Zhi International, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22479 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 3, 2007, (72 FR 36483), Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Gamma hydroxybutyric acid (2010).	I
Amphetamine (1100)	II
Methylphenidate (1724)	II

The company plans to manufacture bulk products for finished dosage units and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Lonza Riverside to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Lonza Riverside to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22485 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 5, 2007, National Center for Natural Products Research—NIDA MProject, University of Mississippi, 135 Coy Waller Lab Complex, University, Mississippi 38677, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to cultivate marihuana for the National Institute on Drug Abuse for research approved by the Department of Health and Human Services.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than January 15, 2008.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22518 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36730), Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for conversion and sale to dosage form manufacturers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of

Rhodes Technologies to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Rhodes Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22487 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36730), Siegfried (USA), Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Siegfried (USA), Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Siegfried (USA), Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22493 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 26, 2007, and published in the **Federal Register** on July 5, 2007, (72 FR 36730–36731), Sigma Aldrich Research Biochemicals, Inc., 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (TCP) (7470)	I
1-Benzylpiperazine (BZP) (7493)	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Ecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II

Drug	Schedule
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Sigma Aldrich Research Biochemicals, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Sigma Aldrich Research Biochemicals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 5, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22497 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated April 17, 2007 and published in the **Federal Register** on April 30, 2007, (72 FR 21298–21299), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for the manufacture of a bulk controlled substance for distribution to its customer.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Stepan Company to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Stepan Company to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22507 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on August 9, 2007, Tocris Cookson, Inc., 16144 Westwoods Business Park, Ellisville, Missouri 63021, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to import the above listed synthetic products for non-clinical laboratory based research only.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than December 17, 2007.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 6, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–22503 Filed 11–15–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,329]

Honeywell Sensing and Control, ACS Division, Including On-Site Leased Workers From Manpower, Westaff and Ad-Vance Personnel, Sarasota, FL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 26, 2007, applicable to workers of Honeywell Sensing and Control, ACS Division, including on-site leased workers from Manpower, Sarasota, Florida. The notice was published in the **Federal Register** on November 6, 2007 (72 FR 62682).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of speed, direction, and position sensors for the aerospace, industrial and transportation industries.

New information shows that leased workers of Westaff and Ad-Vance Personnel were employed on-site at the Sarasota, Florida, location of Honeywell Sensing and Control, ACS Division. The Department has determined that these workers were sufficiently under the control of Honeywell Sensing and Control, ACS Division to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Westaff and Ad-Vance Personnel working on-site at the Sarasota, Florida, location of the subject firm.

The intent of the Department's certification is to include all workers employed at Honeywell Sensing and Control, ACS Division, Sarasota, Florida, who were adversely impacted by a shift in production of speed, direction, and position sensors to Mexico.

The amended notice applicable to TA–W–62,329 is hereby issued as follows:

All workers of Honeywell Sensing and Control, ACS Division, including on-site leased workers of Manpower, Westaff and Ad-Vance Personnel, Sarasota, Florida, who became totally or partially separated from employment on or after October 17, 2006, through October 26, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of November 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22407 Filed 11–15–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,867]

Non-Metallic Components, Inc., Rib Lake, WI; Notice of Affirmative Determination Regarding Application for Reconsideration

By application postmarked October 17, 2007, the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The denial notice was signed on September 19, 2007 and published in the **Federal Register** on October 3, 2007 (72 FR 56385).

The initial investigation resulted in a negative determination based on the finding that imports of custom injection molded plastic parts did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred.

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's customer.

The Department has reviewed the workers' request for reconsideration and the existing record, and has determined that an administrative review is appropriate. Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed in Washington, DC, this 8th day of November, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22408 Filed 11–15–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: November 29, 2007; 1 p.m. to 5:45 p.m. (EST); November 30, 2007; 8 a.m. to 12 p.m. (EST).

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235.

Type of Meeting: Open.

Contact Person: Patty Balanga, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8100.

Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

Agenda: November 29, 2007: p.m.: Welcome/Introductions; Presentation and Discussion—Office of Legislative and Public Affairs; Presentation and Discussion—Impact of Proposal Award and Management Mechanisms; Updates—Office of Information and Resource Management & Office of Budget, Finance, and Award Management activities; Presentation and Discussion—Broadening Participation Working Group.

November 30, 2007: a.m.: Presentation—Total Business System Review Subcommittee Update; Presentation and Discussion—Stewardship Goals and Measures; Committee Discussion; Meeting with NSF Director; Committee Discussion/Wrap-Up.

Dated: November 13, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–22403 Filed 11–15–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–011]

Southern Nuclear Operating Company; Supplementary Notice of Hearing and Opportunity To Petition for Leave To Intervene on an Early Site Permit for the VOGTLE ESP Site

This proceeding concerns the application dated August 14, 2006, filed by Southern Nuclear Operating Company (SNC, the Applicant), pursuant to subpart A of 10 CFR part 52 for an early site permit (ESP). The ESP application seeks approval for use of the existing Vogtle Electric Generating Plant site near Waynesboro, Georgia, for the possible construction of two new nuclear reactors. On October 12, 2006, a notice of hearing and opportunity for leave to intervene was published by the United States Nuclear Regulatory Commission (NRC, the Commission) in the **Federal Register** (71 FR 60195) in this proceeding. That notice specified that the Director, Office of Nuclear Regulator Regulation, NRC, will propose findings on issues pursuant to the Atomic Energy Act of 1954, as Amended, and the National Environmental Policy Act of 1969, as Amended (NEPA). The notice also specified the scope of the hearing to be conducted by the designated Atomic Safety and Licensing Board (Board) and provided an opportunity for persons whose interests may be affected by the proceeding to petition for leave to intervene.

In response to the notice of hearing and opportunity to petition for leave to intervene, on December 11, 2006, the Center for a Sustainable Coast, Savannah Riverkeeper, Southern Alliance for Clean Energy, Atlanta Women's Action for New Directions, and Blue Ridge Environmental Defense League (collectively the Joint Petitioners) filed a timely request for hearing and petition to intervene contesting the SNC ESP application. On December 13, 2006, the Commission referred the petition to the Atomic Safety and Licensing Board Panel to conduct any subsequent adjudication. On December 15, 2006, the Chief of the Atomic Safety and Licensing Board Panel designated, for the purpose of conducting the proceeding, the following Board, G. Paul Bollwerk, III (Chair), Dr. Nicholas G. Trikouros, and Dr. James Jackson (71 FR 77071; December 22, 2006). In a March 12, 2007, issuance, finding that each of the Joint Petitioners had established the requisite standing to intervene in this proceeding and that they had submitted two admissible contentions concerning the SNC ESP application, the Board admitted them as parties to this proceeding. *See* Southern Nuclear Operating Co. (Early Site Permit for Vogtle ESP Site), LBP–07–3, 65 NRC 237 (2006).

On August 16, 2007, SNC submitted to the NRC a supplement to its ESP application requesting authorization to engage in selected construction activities as defined by 10 CFR 50.10. As described by SNC, these activities would generally involve the ''placement of engineered backfill and preparation of the Nuclear Island foundation base slab forms and reinforcing steel.'' In light of the request for this additional authorization, the Commission herein supplements the findings and considerations set forth in the original notice of hearing on October 12, 2006, as follows:

The NRC staff will complete a detailed technical review of the application, including the supplement requesting authority to perform selected construction activities as defined by 10 CFR 50.10, and will document its findings in a safety evaluation report (SER) and an environmental impact statement (EIS). In addition, the Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.23, and the ACRS will report on those portions of the application that concern safety. In addition to the findings set forth in the initial notice of hearing, upon receipt of the ACRS report and completion of the NRC staff's SER and EIS, the Director, Office of New Reactors, NRC, will propose findings on the following additional issues:

Supplementary Issues Pursuant to the Atomic Energy Act of 1954, as Amended

(1) Whether the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities for which the Applicant seeks authorization have been met (Safety Issue 3); (2) whether the Applicant is technically qualified to engage in the activities authorized (Safety Issue 4); and (3) whether issuance of the ESP, granting the Applicant's requested authorization, will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security (Safety Issue 5).

Supplementary Issue Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended

Whether, in accordance with the requirements of subpart A of 10 CFR part 51, the ESP should authorize the Applicant to conduct the requested construction activities.

If, as related to the additional issues outlined above, the hearing is contested as defined by 10 CFR 2.4, the Board, in addition to the directions in the original notice of hearing, will consider Safety Issues 3, 4, and 5 and the issue pursuant to NEPA set forth above.

If, as to the additional issues outlined above, the hearing is not a contested proceeding as defined in 10 CFR 2.4, the Board, in addition to the direction given in the original notice of hearing, will determine without conducting a de novo review: Whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's staff has been adequate to support affirmative findings on Safety Issues 3, 4, and 5, as proposed to be made by the Director, Office of New Reactors; and whether the review conducted by the Commission staff pursuant to NEPA has been adequate.

Regardless of whether the proceeding is contested or uncontested, the Board, in addition to complying with the provisions of the original notice of hearing, will: (1) Determine whether the requirements of section 102(2)(A), (C), and (E) of NEPA and subpart A of 10 CFR part 51 have been met, with respect to the activities to be authorized; (2) independently consider the balance among the conflicting factors with respect to the activities to be authorized which is contained in the record of the proceeding, with a view to determining the appropriate action to be taken; and (3) determine whether the redress plan submitted by the Applicant will adequately redress the activities to be authorized.

In accordance with 10 CFR 2.309, any person whose interest may be affected by this proceeding and who desires to participate as a party with respect to the supplementary issues must file a written petition for leave to intervene and must specify the contentions which the person seeks to have litigated in the hearing. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, provided however parties that have already been admitted to the proceeding not need address the factors enumerated in 10 CFR 2.309(d)(1)–(2). If

not already a party to the proceeding, the petition must specifically state: (1) The name, address and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial or other interest in the proceeding; and (4) the possible effect of any decision or order that may be issued in the proceeding on the petitioner's interest.

Each contention must contain a specific statement of the issue of law or fact to be raised or controverted. A petitioner must also provide the following information with respect to each contention: (1) A brief explanation of the basis for the contention; (2) a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue; and (3) sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. For each contention, the petition must demonstrate that the issue raised in the contention is within the scope of this proceeding and that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in this proceeding. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

A petition for leave to intervene must be filed in accordance with the December 15, 2006, issuance of the Chief of the Atomic Safety and Licensing Board Panel establishing procedures for submitting documents using the NRC Electronic Information Exchange or E-Submittal process. The accession number for the issuance is ML063520200. The issuance is also available through the NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp.*

If any new participant to this proceeding believes they are unable to participate in this proceeding utilizing the electronic document formatting and/or filing processes outlined in the December 15, 2006, issuance, they may file a request for an exemption from the Licensing Board in conjunction with its first filing in this proceeding. Pursuant to the December 15, 2006, issuance, the provisions of 10 CFR 2.302(g)(2) and (3) of the Commission's proposed rule on electronic document filing and formatting shall govern such an exemption request (70 FR 74950, 74960; December 16, 2005). Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

All such petitions must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Board that the petition should be granted based upon a balancing of the factors specified in 10 CFR 2.309(c)(i)–(viii).

This supplementary notice does not affect the status of any person previously admitted as a party to this proceeding or provide any additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues specified for hearing in the original notice of hearing published in the **Federal Register** on October 12, 2006 (71 FR 60195).

A copy of the SNC ESP application is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible from the Agency-wide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the application is ML071710055. The accession number for the August 16, 2007, supplement to the application is ML072330242. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.* The application is also available to local residents at the Burke County Library in Waynesboro, Georgia, and is available on the NRC Web page at *http://www.nrc.gov/reactors/new-licensing/esp/vogtle.html.*

Dated at Rockville, Maryland, this 9th day of November 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–22413 Filed 11–15–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceeding Regarding Laws, Regulations and Methodology for Calculating Dumping Margins (''Zeroing'')

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that pursuant to a request of the European Communities, the Dispute Settlement Body of the World Trade Organization (''WTO'') has established a compliance panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning the dispute *United States—Laws, Regulations and Methodology for Calculating Dumping Margins (''zeroing'')—Recourse to Article 21.5 of the DSU by the European Communities.* That request may be found at *http://www.wto.org* contained in a document designated as WT/DS294/25. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceeding, comments should be submitted on or before December 21, 2007.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0715@ustr.eop.gov, Attn:* ''EC Zeroing (21.5)'' in the subject line, or (ii) by fax, to Sandy McKinzy at 202–395–3640, with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: Elizabeth V. Baltzan, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–3582.

SUPPLEMENTARY INFORMATION: USTR is providing notice that the DSB has established, at the request of the EC, a dispute settlement compliance panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU). Such panel will hold any hearing in Geneva, Switzerland. It is possible that the public will be able to observe the hearing of the panel. If so, then USTR would intend to provide notice on USTR's Web site (under ''Opportunities to View Dispute Settlement Hearings'' on the Web page *http://www.ustr.gov/Trade_Agreements/Monitoring_Enforcement/Dispute_Settlement/WTO/Section_Index.html*) of the public hearing and the means by which the public may observe.

Major Issues Raised by the EC

In the European Communities' (the ''EC'') request for the establishment of a panel in connection with the dispute *United States—Laws, Regulations and Methodology for Calculating Dumping Margins (''zeroing'')—Recourse to Article 21.5 of the DSU by the European Communities,* the EC challenges the following:

- The consistency with Articles 17.14 and 21 of the DSU of the dates of entry into force of the SeCtion 129 determinations issued by the Department of Commerce to comply with the recommendations and rulings of the original proceeding;
- The alleged failure to eliminate ''zeroing'' in 16 administrative reviews found, in the original proceeding, to be inconsistent with U.S. WTO obligations; the EC alleges that the failure to eliminate ''zeroing'' in these reviews is a breach of Articles 2, 9.3, and 11 of the Antidumping Agreement and Article VI:2 of the GATT 1994;
- An alleged miscalculation with respect to one determination;
- With respect to all measures identified in the request, the alleged imposition, collection, or liquidation of antidumping duties ''inflated'' by ''zeroing'' beyond April 9, 2007;
- The increase in the ''all-others'' rate in connection with two determinations;
- With respect to original investigations in which the recalculation of dumping margins led to the conclusion that some exporters were not dumping or had *de minimis* margins, the failure to establish whether the remaining amount of dumped imports was causing injury to the domestic industry and whether the volume of dumped imports was not negligible; and
- The continued use of zeroing in the reviews related to the measures in question.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0715@ustr.eop.gov,* with ''EC Zeroing (21.5)'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; for the dispute settlement compliance panel or in the event of an appeal from such a panel, the U.S. submissions; the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–294) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E7–22451 Filed 11–15–07; 8:45 am]

BILLING CODE 3190–W8–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56779; File No. S7–26–07]

Notice of Application of the National Association of Realtors for Exemptive Relief Under Sections 15 and 36 of the Exchange Act and Request for Comment

November 9, 2007

The National Association of Realtors® (''NAR'') has requested an exemption pursuant to sections 15(a)(2) and 36(a) of the Securities Exchange Act of 1934 (''Exchange Act'') from the broker-dealer registration requirements of section 15(a)(1) and the reporting and other requirements of the Exchange Act (other than sections 15(b)(4) and 15(b)(6)), and the rules and regulations thereunder, that apply to a broker or dealer that is not registered with the Commission. Subject to the conditions specified in NAR's application (''Application'') and discussed below, the requested exemption would permit a licensed real estate agent or broker who is predominantly engaged in and has substantial experience in the commercial real estate market and the real estate brokerage firm with which such agent or broker is licensed to receive compensation in the form described below for the sale of a TIC Security, as defined below.

In order to provide an opportunity for interested persons to comment on the Application, the Commission is publishing this notice and request for comment pursuant to Rule 0–12 under the Exchange Act. The Commission will carefully consider all comments submitted, and, should it determine to issue an exemption, could eliminate or add to, or modify, the conditions discussed below.

Background

Section 15(a)(1) of the Exchange Act generally requires any broker or dealer who makes use of the mails or any instrumentality of interstate commerce to effect transactions in, or induce the purchase or sale of, any security to register with the Commission. Section 3(a)(4)(A) of the Exchange Act generally defines a ''broker'' as ''any person engaged in the business of effecting transactions in securities for the account of others.'' Absent an exemption, a licensed real estate agent or real estate broker who receives compensation for the sale of a TIC Security would be required to be registered as a broker with the Commission or to be a registered associated person of a registered broker-dealer. Similarly, a real estate brokerage firm that receives compensation for the sale of a TIC Security would be required to register as a broker-dealer.

Section 15(a)(2) of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt from the broker-dealer registration requirements of section 15(a)(1) any broker or dealer or class of brokers or dealers, by rule or order, as it deems consistent with the public interest and the protection of investors.[1] Similarly, but more broadly, section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, by rule, regulation, or order, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[2]

Summary of the Application

NAR requests an exemption to allow any licensed real estate agent or broker who is predominantly engaged in and has substantial experience[3] in the sale of commercial real estate[4] (''Commercial Real Estate Professional'') and the real estate brokerage firm with which he or she is licensed (''Real Estate Firm'') (collectively, a ''RE Participant'') to receive a real estate advisory fee (''Real Estate Advisory Fee'') from a purchaser of an undivided tenant-in-common interest in real property (''TIC Interest'')[5] that is offered and sold together with other arrangements that cause it to be deemed to be a security under the federal securities laws (''TIC Security'').[6]

Under NAR's exemptive request, a Real Estate Advisory Fee could be paid by the purchaser directly or on behalf of the purchaser by the sponsor or issuer of the TIC Security, which could, thereby, reduce the commission or other compensation received by a registered broker-dealer involved in the TIC Security transaction. The Real Estate Advisory Fee generally would be paid to the Real Estate Firm with which the Commercial Real Estate Professional is licensed. The Firm would distribute all or a previously agreed upon percentage of the Real Estate Advisory Fee to the Commercial Real Estate Professional that signed a buyer's agent agreement with the client and to any other Commercial Real Estate Professional or Real Estate Firm that was added to the agreement with the consent of the client.

As proposed by NAR, in order for any Commercial Real Estate Professional or any Real Estate Firm with which such person is licensed to receive or share in a Real Estate Advisory Fee in reliance on the requested exemption, the Commercial Real Estate Professional, the Real Estate Firm, the Selling Broker-Dealer and the Lead Placement Agent for the TIC Security transaction would comply with the following conditions, as applicable:

(1) General Conditions

a. A Real Estate Advisory Fee shall only be paid to or shared with a Commercial Real Estate Professional who is predominantly engaged in sales of real estate other than TIC Securities, has substantial experience in commercial real estate,[7] is appropriately licensed in compliance with the applicable state real estate laws, and is identified in the buyer's agent agreement (as further described below) with the client.[8]

b. Each client of the RE Participant purchasing a TIC Security must receive at closing a deed representing his or her undivided fractional interest in the TIC Security property and the TIC Security must qualify as a ''replacement property'' for purposes of an IRC section 1031 exchange, regardless of whether the client is purchasing the TIC Security for that purpose.

c. The TIC Security transaction must be effected through a registered broker-dealer.

(2) Buyer's Agent Agreement and Introduction to Selling Broker-Dealer

a. Prior to the Commercial Real Estate Professional discussing a specific TIC Security property with his or her client, the client must enter into a written buyer's agent agreement with the RE Participant, which shall obligate the RE Participant to solely represent the client in connection with the purchase of a TIC Security.

b. The buyer's agent agreement must identify any other RE Participant who is

[1] *See* 15 U.S.C. 78*o*(a)(2).

[2] *See* 15 U.S.C. 78mm.

[3] The Application defines ''substantial experience'' to mean a Commercial Real Estate Professional who (1) has received a Certified Commercial Investment Member designation from the Commercial Investment Real Estate Institute, a designation from the Society of Industrial and Office REALTORS®, or an Accredited Land Consultant designation from the REALTORS® Land Institute; (2) has education and transaction experience that is equivalent to those required to obtain those designations; or (3) has participated in at least five commercial real estate transactions having an aggregate value of at least $3 million in the prior five years or at least 10 commercial real estate transactions having an aggregate value of at least $10 million in the prior 10 years, including 3 transactions in the prior 3 years. Alternatively, the Application provides that a Commercial Real Estate Professional will satisfy the ''substantial experience'' requirement based on a combination of at least two of the following factors: education in commercial real estate; the length of time during which the person has engaged in commercial real estate transactions; the dollar value of commercial real estate transactions in which the individual has participated; and the number of commercial real estate transactions in which the individual has participated.

[4] For purposes of the Application, ''commercial real estate'' includes all real estate categories other than single-family and one- to four-unit residential dwellings, including office, retail, raw land, multifamily (*i.e.*, greater than four dwellings), industrial and others. It does not include TIC Securities.

[5] TIC Interests are generally offered as a replacement property to individuals seeking to complete tax-deferred exchange transactions pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended.

[6] TIC Securities are sold by a sponsor through a registered broker-dealer acting as a placement agent (''Lead Placement Agent''). Such Lead Placement Agent may be the sole distributor of the TIC Securities or may enter into an agreement with one or more other registered broker-dealers to sell the TIC Securities as participating brokers (each, a ''Selling Broker-Dealer''). A Lead Placement Agent also may act as a Selling Broker-Dealer.

[7] *See* note 3.

[8] Although not proposed as a condition to NAR's requested exemption, NAR states in its application that it ''believes'' the buyer's agent agreement ''should include'' a representation that the Commercial Real Estate Professional who receives or shares a Real Estate Advisory Fee has substantial experience in commercial real estate.

to receive or share in the Real Estate Advisory Fee and any such other RE Participant may only be added to the buyer's agent agreement with the consent of the client.

c. The buyer's agent agreement must state the aggregate maximum amount of the Real Estate Advisory Fee to be paid by the client to all RE Participants, including any RE Participant that is added to the agreement, which shall be expressed as either a fixed dollar amount or as a dollar amount that is determined in accordance with a predetermined formula (*e.g.*, a fixed percentage of the property's full purchase price or a fixed percentage of the cash paid for the property).

d. The aggregate maximum amount of Real Estate Advisory Fee that is actually paid by the client to all RE Participants, including any RE Participant that is added to the buyer's agent agreement, will not exceed the amount of the contracted Real Estate Advisory Fee even if the client, the sponsor, or another person is willing to pay a higher fee.

e. The Commercial Real Estate Professional may discuss the real estate characteristics of a TIC Security property with the client and arrange for the client to inspect a TIC Security property and any other non-securities property before introducing the client to the Selling Broker-Dealer, but shall arrange such introduction upon the client advising the Commercial Real Estate Professional that he or she is considering the purchase of a specific TIC Security property.

(3) Restrictions on Conduct of the RE Participant

A RE Participant that, directly or indirectly, receives a portion of a Real Estate Advisory Fee will not:

a. List or otherwise advertise the availability of TIC Securities or advertise that the RE Participant represents clients in connection with the purchase of TIC Securities;

b. Share a Real Estate Advisory Fee with any person not permitted to receive such Fee under the requested exemption;

c. Handle customer funds or securities in a TIC Security transaction;

d. Negotiate the terms and conditions of the purchase of any TIC Security on behalf of the client with a broker-dealer or sponsor selling a TIC Security or have any power to bind the client in the TIC Security transaction, but may transmit documents and information between the parties and may attend meetings between the Lead Placement Agent, Selling Broker-Dealer, and the sponsor and the client (solely in order to assist the client);

e. Represent the client as a ''purchaser representative,'' as defined in Rule 501(h) of the Securities Act of 1933;

f. Participate in the structuring of a TIC Security investment offered to the client;

g. Have the authority to close a purchase of a TIC Security on a client's behalf; or

h. Assist a client that purchases a TIC Security to obtain financing, except to provide a list of potential lenders.

(4) Other Obligations of the RE Participant

a. The RE Participant must deliver a copy of the executed buyer's agent agreement to the Lead Placement Agent at closing.

b. Any Commercial Real Estate Professional that is to receive, directly or indirectly, a portion of a Real Estate Advisory Fee must not be subject to any ''statutory disqualification,'' as that term is defined in section 3(a)(39) of the Exchange Act (other than subparagraph (E) of that section), and will deliver a representation in writing to that effect to the Lead Placement Agent at closing. To the extent the statutory disqualification representation is included in the buyer's agent agreement, it must be updated at closing with respect to each Commercial Real Estate Professional that may, directly or indirectly, receive any portion of a Real Estate Advisory Fee.

(5) Obligations of the Selling Broker-Dealer and Lead Placement Agent

a. Before the TIC Security transaction is effected, the Selling Broker-Dealer must perform a suitability analysis of the TIC Security transaction in accordance with the rules of the Selling Broker-Dealer's applicable self-regulatory organization (''SRO'') as if the Selling Broker-Dealer had recommended the TIC Security transaction and must deliver a representation in writing to that effect to the Lead Placement Agent at closing or, if the Selling Broker-Dealer is the Lead Placement Agent, must make a representation in writing to that effect at closing.

b. The Selling Broker-Dealer will inform the customer if the Selling Broker-Dealer determines that the TIC Security transaction to be effected for the customer is not suitable under the rules of the Selling Broker-Dealer's applicable SRO, and will not effect the TIC Security transaction unless it obtains the customer's written affirmation that the customer wants to proceed with the TIC Security transaction notwithstanding the Selling Broker-Dealer's determination. The Selling Broker-Dealer must deliver the written affirmation to the Lead Placement Agent at closing or, if the Selling Broker-Dealer is the Lead Placement Agent, must maintain the written affirmation as specified below.

c. The Lead Placement Agent must maintain a copy of each of the documents that is to be made and/or delivered at closing pursuant to the requested exemption (*i.e.*, the buyer's agent agreement, the statutory disqualification representations, the suitability representation, and, if applicable, the customer's written affirmation), the relevant part of the real estate closing documents that evidences the amount of the Real Estate Advisory Fee paid to any RE Participant involved in the TIC Security transaction, and any other records that are required to be maintained in accordance with the recordkeeping requirements of the federal securities laws for a period of three (3) years in accordance with Exchange Act Rule 17a–4(f).

Summary of Reasons for the Exemption

NAR states that the requested exemption would allow a potential purchaser of a TIC Security to benefit from the real estate expertise of a Commercial Real Estate Professional, while receiving necessary protections afforded by federal and state securities laws and regulations. NAR states that the proposed conditions would limit the role of a Commercial Real Estate Professional and Real Estate Firm with which such person is licensed that would receive a Real Estate Advisory Fee. As a result, NAR states that an exemption from registration and regulation of the Commercial Real Estate Professional and the Real Estate Firm with which such person is licensed as a broker-dealer would be appropriate in the public interest and consistent with the protection of investors.

NAR has waived its request for confidential treatment and the Application is available on the Commission's Web site (*http://www.sec.gov/rules/other.shtml*) and at 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.

Request for Comment

The Commission invites any person to submit comments or other information that relates to the exemptions requested in the Application, including whether the exemption should be granted, whether the conditions are appropriate, and whether conditions should be added, eliminated, or modified. In

particular, the Commission requests comment as to the following:

• Is the Application's definition of ''substantial experience in commercial real estate'' appropriate? Should ''substantial experience in commercial real estate'' be defined differently? If so, how?

• Should a Commercial Real Estate Professional be considered to have ''substantial experience in commercial real estate'' if he or she meets a combination of two subjective factors (such as education and dollar value of transactions), or should substantial experience only be demonstrated by the specific education or transactional benchmarks enumerated in the Application?

• Should the quantitative factors included in the Application's definition of ''substantial experience in commercial real estate'' be periodically adjusted for inflation? If so, how often and which measure of inflation should be used?

• Are there education and experience designations from groups other than those affiliated with NAR that would be appropriate to name specifically as evidencing ''substantial experience in commercial real estate''?

• Should the exemption include a quantitative threshold to describe when a Commercial Real Estate Professional would be ''predominantly engaged'' in the sale of real estate other than TIC Securities? If so, what should that threshold be? For example, should 85 percent of the dollar value of a Commercial Real Estate Professional's sales during one or more prior calendar years be in real estate other than TIC securities in order to meet the predominance requirement?

• Should the exemption be conditioned on the buyer's agent agreement including a representation that the Commercial Real Estate Professional who receives or shares a Real Estate Advisory Fee has substantial experience in commercial real estate?

• Is there a possibility that the exemption, if granted, could create an incentive for Commercial Real Estate Professionals to sell TIC Securities instead of non-security forms of commercial real estate investments to their clients? Are there countervailing factors that would mitigate or neutralize any such incentive? Should the possibility of any such incentive be addressed by one or more conditions, for example, by requiring Commercial Real Estate Professionals to disclose in the buyer's agent agreement the various fees they would receive for selling TIC Securities and non-security forms of commercial real estate investments? Are there other conditions that could address this incentive?

• Are the proposed conditions that would impose obligations on registered broker-dealers appropriate? Would they be sufficient to accomplish the desired goals, including maintaining investor protection? Should any be eliminated or modified, or should additional conditions be included? Commenters are invited to suggest conditions and explain their purpose.

For further information, contact Catherine McGuire, Chief Counsel; Brian Bussey, Assistant Chief Counsel; or Michael Hershaft, Special Counsel, at (202) 551–5550, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

Submission of Comments

Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or

• Send an e-mail to rule-comments@sec.gov. Please include File No. S7–26–07 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 No. S7–26–07. 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/other.shtml*). 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 No. S7–26–07 and should be submitted on or before December 17, 2007. The Commission will take final action on the Application no earlier than December 18, 2007.

Paperwork Reduction Act Analysis

Certain provisions of the requested exemption contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995.[9] The Commission has submitted these information collections to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(c) and 5 CFR 1320.10. These collections of information under the requested exemption are new, and OMB has not yet assigned a control number for them. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.[10]

A. Delivery of the Buyer's Agent Agreement to the Lead Placement Agent at Closing

1. Collection of Information

The requested exemption would be conditioned on the RE Participant delivering a copy of the executed buyer's agent agreement to the Lead Placement Agent at closing.

2. Proposed Use of the Information

The proposed buyer's agent agreement is designed to assist in implementing the requested exemption and monitoring for compliance. The proposed delivery requirement is designed to ensure that the Lead Placement Agent has a copy of the buyer's agent agreement in order to comply with its recordkeeping obligations discussed below, which would facilitate monitoring compliance with the requested exemption.

3. Respondents

The proposed collection of information would apply to RE Participants who rely on the requested exemption.

4. Reporting and Recordkeeping Burden

The Commission estimates that approximately 800 RE Participants [11] would rely on the requested exemption and each RE Participant would, on average, deliver to the Lead Placement Agent a copy of an executed buyer's agent agreement 6.63 times [12] a year.

[9] 44 U.S.C. 3501, *et seq.*

[10] 44 U.S.C. 3512.

[11] Based on discussions with industry participants on the number of registered representatives currently involved in TIC Security transactions, the Commission estimates that approximately 800 Commercial Real Estate Professionals would rely on the requested exemption. Although this collection of information covers RE Participants, which includes Commercial Real Estate Professionals and the real estate brokerage firms with which they are licensed, the Commission expects that the Commercial Real Estate Professionals, and not the firms, would actually fulfill the delivery requirement.

[12] Based on discussions with industry representatives, we understand that there were approximately 312 TIC Security offerings in 2006

Continued

Based on these estimates, the Commission estimates that this requirement would result in approximately 5,304 disclosures [13] per year. The Commission also estimates that a RE Participant would spend approximately five minutes per disclosure to the Lead Placement Agent. Thus, the estimated total annual reporting and recordkeeping burden for this requirement is 442 hours [14] for the RE Participants.

5. Collection of Information is Mandatory

This proposed collection of information would be mandatory for RE Participants who rely on the requested exemption.

6. Confidentiality

The proposed collection of information would be provided by the RE Participant to the Lead Placement Agent and would be available for inspection by the Commission and the applicable SRO.

7. Record Retention Period

The requested exemption does not contain a separate record retention period.[15]

B. Delivery of the Statutory Disqualification Representation at Closing

1. Collection of Information

The requested exemption would require any Commercial Real Estate Professional that is to receive, directly or indirectly, a portion of a Real Estate Advisory Fee to not be subject to any ''statutory disqualification,'' as defined in section 3(a)(39) of the Exchange Act (other than subparagraph (E) of that section), and to deliver a representation in writing to that effect to the Lead Placement Agent at closing.[16]

2. Proposed Use of the Information

The proposed ''statutory disqualification'' representation would be used in implementing the requested exemption and monitoring its use. The proposed delivery requirement is designed to ensure that the Lead Placement Agent has a copy of the statutory disqualification representation in order to comply with its recordkeeping obligations discussed below, which would facilitate monitoring compliance with the exemption.

3. Respondents

The proposed collection of information would apply to Commercial Real Estate Professionals who would receive, directly or indirectly, a portion of a Real Estate Advisory Fee pursuant to the requested exemption.

4. Reporting and Recordkeeping Burden

The Commission estimates that approximately 800 Commercial Real Estate Professionals [17] would rely on the requested exemption and each Commercial Real Estate Professional would on average deliver the written statutory disqualification representation 6.63 times [18] a year. Based on these estimates, the Commission anticipates that this requirement would result in 5,304 disclosures [19] per year. The Commission estimates that approximately 95 percent of Commercial Real Estate Professionals would spend approximately five minutes for each representation to the Lead Placement Agent. The Commission also estimates that approximately five percent of Commercial Real Estate Professionals [20] would spend approximately 30 minutes for their first representation to the Lead Placement Agent,[21] and five minutes for each of the 5.63 subsequent representations. Thus, the estimated total annual reporting and recordkeeping burden for these requirements is 458.67 hours [22] for Commercial Real Estate Professionals.

5. Collection of Information Is Mandatory

This proposed collection of information would be mandatory for Commercial Real Estate Professionals who rely on the requested exemption.

6. Confidentiality

The collection of information would be provided by the Commercial Real Estate Professional to the Lead Placement Agent and to the customer and would be available for inspection by the Commission and the applicable SRO.

7. Record Retention Period

The requested exemption does not contain a separate record retention period.[23]

C. Suitability Determination by the Selling Broker-Dealer

1. Collection of Information

The requested exemption would require a Selling Broker-Dealer to deliver a representation in writing that the Selling Broker-Dealer performed a suitability analysis to the Lead Placement Agent at closing, or, if the Selling Broker-Dealer is the Lead Placement Agent, to make such a representation in writing at closing.

2. Proposed Use of the Information

The proposed suitability representation would be used in

and approximately 17 participants per offering for a total of 5,304 TIC Security transactions. For purposes of calculating the reporting and recordkeeping burden, the Commission estimates that all TIC Security transactions would be conducted pursuant to the requested exemption. The Commission recognizes that it is highly unlikely that all TIC Security transactions would involve a RE Participant pursuant to the requested exemption in light of the existing broker-dealer sales channel for TIC Securities. However, the Commission does not have sufficient information to estimate participation rates of less than 100 percent, and thus has chosen the most conservative estimate for calculating the reporting and recordkeeping burden. Accordingly, 5,304 TIC Security transactions/800 RE Participants = 6.63. The Commission has rounded its calculation to two decimal places. Assuming a relatively even distribution of transactions among potential respondents, some respondents would deliver to the Lead Placement Agent a copy of an executed buyer's agent agreement six times a year, and others would do so seven times a year.

[13] $6.63 \times 800 = 5,304$.

[14] 5,304 TIC Security transactions × five minutes per transaction = 26,520/60 = 442.

[15] The Lead Placement Agent, as a registered broker-dealer, would be subject to the record retention provisions of Exchange Act Rule 17a–4. OMB has approved the collection of information related to these record retention provisions. *See* OMB control number 3235–0279.

[16] Although the requested exemption would require a Commercial Real Estate Professional to update the ''statutory disqualification'' representation at closing, if the ''statutory disqualification'' notice were already included in the buyer's agent agreement, there would be no requirement to include the representation in the buyer's agent agreement. Commercial Real Estate Professionals would have only one ''statutory disqualification'' representation disclosure requirement per transaction.

[17] *See* note 11.

[18] *See* note 12. The Commission has rounded its calculation to two decimal places. Assuming a relatively even distribution of transactions among potential respondents, some respondents would deliver to the Lead Placement Agent a written statutory disqualification representation six times a year, and others would do so seven times a year.

[19] *See* note 13.

[20] Based on the Commission's experience with disciplinary disclosures by registered representatives on Forms U–4, the Commission estimates that five percent of Commercial Real Estate Professionals could be subject to a statutory disqualification and would require more time to make such a determination.

[21] The Commission estimates that these Commercial Real Estate Professionals would spend 25 minutes to determine whether they would be subject to a statutory disqualification and to generate the representation, and five minutes to disclose the representation.

[22] $800 \times .95 \times 6.63 \times 5 = 25,194/60 = 419.90$ total burden hours for 95 percent of the Commercial Real Estate Professionals. $800 \times .05 \times 1 \times 30 = 1,200/60 = 20$ hours for the first representation by five percent of the Commercial Real Estate Professionals. $800 \times .05 \times 5.63 \times 5 = 1,126/60 = 18.77$ hours for the second and third representations by five percent of the Commercial Real Estate Professionals. Thus total burden hours would be 419.90 + 20 + 18.77 = 458.67. The Commission has rounded its calculations to two decimal places.

[23] *See* note 15.

implementing the requested exemption and monitoring its use. The proposed delivery requirement is designed to ensure that the Lead Placement Agent has a copy of the suitability analysis in order to comply with its recordkeeping obligations discussed below, which would facilitate monitoring compliance with the exemption.

3. Respondents

The proposed collection of information would apply to Selling Broker-Dealers, who deliver or make a suitability determination pursuant to the requested exemption.

4. Reporting and Recordkeeping Burden

The Commission estimates that approximately 150 Selling Broker-Dealers [24] would either deliver or make a representation at closing and each Selling Broker-Dealer would on average deliver or make such a representation 33.59 times [25] a year. Based on the simplicity of the record to be created, the Commission also estimates that a Selling Broker-Dealer would spend approximately five minutes on each disclosure. Thus, the estimated total annual reporting and recordkeeping burden for this requirement is 419.90 hours [26] for Selling Broker-Dealers.

5. Collection of Information Is Mandatory

This proposed collection of information would be mandatory for Selling Broker-Dealers who rely on the requested exemption.

6. Confidentiality

The proposed collection of information would be provided by the Selling Broker-Dealer to the Lead Placement Agent, or if the Selling Broker-Dealer is the Lead Placement Agent, to create the collection of information and would be available for inspection by the Commission and the applicable SRO.

7. Record Retention Period

The requested exemption does not contain a separate record retention period.[27]

D. Customer Affirmation by the Selling Broker-Dealer

1. Collection of Information

The requested exemption would require a Selling Broker-Dealer that determines that a TIC Security transaction is not suitable to obtain a written affirmation that the customer wants to proceed with the TIC Security transaction notwithstanding the Selling Broker-Dealer's determination. It also would require the Selling Broker-Dealer to deliver the written affirmation to the Lead Placement Agent at closing or, if the Selling Broker-Dealer is the Lead Placement Agent, to maintain the written affirmation consistent with the record retention provisions of Exchange Act Rule 17a–4.

2. Proposed Use of the Information

This proposed information is designed to ensure that the customer is informed if a Selling Broker-Dealer determines a transaction is not suitable, and, if the customer wants to proceed with the transaction, that the customer has made such a decision in light of the broker-dealer's determination. In addition, the proposed delivery requirement is designed to ensure that the Lead Placement Agent has a copy of the customer affirmation in order to comply with its recordkeeping obligations discussed below, which would facilitate monitoring compliance with the exemption.

3. Respondents

The proposed collection of information would apply to Selling Broker-Dealers who deliver or maintain a customer affirmation determination pursuant to the requested exemption.

4. Reporting and Recordkeeping Burden

The Commission estimates that there are approximately 150 Selling Broker-Dealers that are potential respondents, those Selling Broker-Dealers would obtain and then deliver or maintain a written affirmation from 265.20 customers who are clients [28] of Commercial Real Estate Participants a year, and each Selling Broker-Dealer would on average obtain and then deliver or maintain such an affirmation 1.77 [29] times a year. The Commission also estimates that a customer would spend approximately 30 minutes on each disclosure and the Selling Broker-Dealer would spend approximately 35 minutes on each disclosure.[30] Thus, the estimated total annual reporting and recordkeeping burden for this proposed requirement is an aggregate of 132.60 hours for customers [31] and 154.70 hours for the Selling Broker-Dealers.[32]

5. Collection of Information Is Mandatory

This collection of information would be mandatory for Selling Broker-Dealers who rely on the requested exemption.

6. Confidentiality

The proposed collection of information would be provided by the Selling Broker-Dealer to the Lead Placement Agent, or retained as a

[24] The approximate number of Selling Broker-Dealers is based on discussions with industry participants.

[25] The Commission estimates that there would be approximately 5,304 TIC Security transactions a year. *See* note 12. The Commission estimates that approximately five percent of all proposed TIC Security transactions would be determined to be not suitable for a customer under the requested exemption. This estimate is based on discussions with industry, which indicated that currently approximately five percent of proposed TIC Security transactions are determined to be not suitable for a potential purchaser. Accordingly, the Commission estimates that Selling Broker-Dealers would make or deliver a suitability determination in approximately 95 percent of all transactions. Thus, a Selling Broker-Dealer would make or deliver approximately ((5,304 × .95)/150) = 33.59 determinations. The Commission has rounded its calculation to two decimal places. Assuming a relatively even distribution of transactions among potential respondents, some respondents would make or deliver a suitability representation 33 times a year, and others would do so 34 times a year.

[26] (5,304 × .95) × five minutes per transaction = 25,194/60 = 419.90.

[27] *See* note 15.

[28] As discussed in note 25, the Commission estimates that approximately five percent of all proposed TIC Security transactions would be determined to be not suitable. 5,304 × .05 = 265.20. The Commission has rounded its calculation to two decimal places. In other words, in any given year the Commission estimates there would be either 265 or 266 customers whose Selling Broker-Dealer determines that a TIC Security transaction is not suitable.

[29] The Commission estimates that there would be approximately 5,304 TIC Security transactions under the requested exemption. *See* note 12. The Commission estimates that Selling Broker-Dealers would obtain and then deliver or maintain the customer affirmation in five percent of all transactions under the requested exemption. This estimate is based on discussions with industry, which indicated that currently approximately five percent of proposed TIC Security transactions are determined to be not suitable for a potential purchaser. For purposes of calculating the reporting and recordkeeping burden, the Commission estimates that all customers whose Selling Broker-Dealer determines that a TIC Security transaction is not suitable would provide a written affirmation pursuant to the requested exemption. The Commission recognizes that it is highly unlikely that all customers would provide a written affirmation in the face of a Selling Broker-Dealer's determination that a TIC Security transaction is not suitable. However, the Commission does not have sufficient information to estimate affirmation rates of less than 100 percent, and thus has chosen the most conservative estimate for calculating the reporting and recordkeeping burden. Thus, a Selling Broker-Dealer would obtain approximately ((5,304 × .05)/150) = 1.77 affirmations a year. The Commission has rounded its calculation to two decimal places. Assuming a relatively even distribution of transactions among potential respondents, some respondents would obtain an affirmation one time a year, and others would do so two times a year.

[30] We estimate that it would take the Selling Broker-Dealer 30 minutes to explain to its customer that the transaction is not suitable, and to discuss with and obtain the subsequent affirmation from the customer, and five minutes to deliver or maintain the affirmation.

[31] 265.20 TIC Security transactions (5,304 × .05) × 30 minutes per transaction = 7,956/60 = 132.60.

[32] 265.20 TIC Security transactions (5,304 × .05) × 35 minutes per transaction = 9,282/60 = 154.70.

record, if the Selling Broker-Dealer is the Lead Placement Agent, and would be available for inspection by the Commission and the applicable SRO.

7. Record Retention Period

The requested exemption does not contain a separate record retention period.[33]

E. Recordkeeping by the Lead Placement Agent

1. Collection of Information

The requested exemption would require the Lead Placement Agent to maintain a copy of each of the documents that is to be made and/or delivered at closing, as discussed above (*i.e.*, the buyer's agent agreement, the statutory disqualification representations, the suitability representation, and, if applicable, the customer's written affirmation), and the relevant part of the real estate closing documents that evidences the amount of the Real Estate Advisory Fee paid to any RE Participant involved in the TIC Security transaction.[34]

2. Proposed Use of the Information

The proposed use of this information is to facilitate monitoring compliance with the exemption by compelling the Lead Placement Agent to maintain records of all documents that are required to be delivered at closing.

3. Respondents

The proposed collection of information would apply to Lead Placement Agents that act pursuant to the requested exemption.

4. Reporting and Recordkeeping Burden

The Commission estimates that approximately 45 Lead Placement Agents [35] would act pursuant to the requested exemption. On average, a Lead Placement Agent would maintain copies of the relevant documents for approximately 117.87 TIC Security transactions [36] a year. The Commission also estimates that a Lead Placement Agent would spend 10 minutes per closing to maintain a copy of these documents. Thus, the estimated total annual reporting and recordkeeping burden for this requirement is 884 hours.[37]

5. Collection of Information Is Mandatory

This proposed collection of information would be mandatory for Lead Placement Agents that act pursuant to the requested exemption.

6. Confidentiality

The proposed collection of information does not address the confidentiality of information prepared under this rule; however, the collection of information would be available for inspection by the Commission and the applicable SRO.

7. Record Retention Period

As specified, the Lead Placement Agent would be required to maintain copies of these documents for a period of three years in accordance with its existing obligations under Exchange Act Rule 17a–4(f).

F. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission solicits comments to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those required to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the proposed collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy of their comments to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, and refer to File No. S7–26–07. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this notice in the **Federal Register**. Therefore, comments to OMB are best assured of having full effect if OMB receives them within 30 days of this publication. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7–26–07, and be submitted to the Securities and Exchange Commission, Branch of Records Management, 100 F Street, NE., Washington, DC 20549–1110.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–22425 Filed 11–15–07; 8:45 am]

BILLING CODE 8011–01–P

[33] *See* note 15.

[34] The requested exemption also would require the Lead Placement Agent to maintain a copy of any other records that are required to be maintained in accordance with the recordkeeping requirements of the federal securities laws. *See* note 15.

[35] Based on discussions with industry representatives, the Commission estimates that there are 45 sponsors of TIC Security transactions and that each would have a Lead Placement Agent.

[36] 5,304 TIC Security transactions/45 Lead Placement Agents = 117.87. The Commission has rounded its calculation to two decimal places. Assuming a relatively even distribution of transactions among potential respondents, some Lead Placement Agents would maintain copies of the relevant documents for 117 transactions a year, and others would do so for 118 transactions a year.

[37] 5,304 TIC Security transactions × 10 minutes = 53,040/60 = 884.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56774; File No. SR–CBOE–2007–114]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto To List and Trade Options Already Listed on Another National Securities Exchange

November 8, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2007, 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 and II below, which Items have been substantially prepared by the Exchange. On October 26, 2007, CBOE filed Amendment No. 1 to the proposed rule change.[3] This order provides notice of the proposal, as amended, and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add new Interpretation .01(c) to CBOE Rule 5.3 (Criteria for Underlying Securities) for the purpose of permitting the Exchange to list and trade individual equity options on the Exchange that are

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supercedes the original filing and replaces it in its entirety.

otherwise ineligible for listing and trading if such options are listed and traded on another national securities exchange. The text of the proposed rule change is available on the Exchange's Web site (http://*www.cboe.org/legal*), at CBOE'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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to revise the Exchange's options listing standards so that as long as the continued listing criteria set forth in CBOE Rule 5.4 (Withdrawal of Approval of Underlying Securities) are met and the option is listed and traded on another national securities exchange, the Exchange would be able to list and trade the option. CBOE Rule 5.3 sets forth the requirements that an underlying equity security must meet before the Exchange may initially list options on that security. The Exchange notes that these requirements are relatively uniform among the options exchanges.

Interpretation .01 to CBOE Rule 5.3 relates to the minimum market price at which an underlying security must trade for an option to be listed on it, and applies to the listing of individual equity options on both ''covered'' and ''uncovered'' underlying securities.[4] In the case of an underlying security that is a ''covered security'' as defined under section 18(b)(1)(A) of the Securities Act, the closing market price of the underlying security must be at least $3.00 for the five previous consecutive business days preceding the date on which the Exchange submits a certification to The Options Clearing Corporation (''OCC'') for listing and trading.[5]

In connection with an underlying security deemed to be ''uncovered,'' Exchange rules require that the market price per share of the underlying security be at least $7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

CBOE Rule 5.4 sets forth the Exchange's continued listing criteria, which the Exchange notes are less stringent than the initial listing criteria contained in CBOE Rule 5.3. This is due largely because, in total, the Exchange's listing criteria assure that options will be listed and traded on securities of companies that are financially sound and subject to adequate minimum standards. The Exchange believes that the continued listing criteria are uniform among the options exchanges.

To address the circumstance in which an options class is currently ineligible for listing on the Exchange, while at the same time such option is listed and trading on another options exchange(s), the Exchange proposes to amend CBOE Rule 5.3. Specifically, the Exchange proposes to add new paragraph (c) to Interpretation .01 to CBOE Rule 5.3 to provide that notwithstanding that a particular underlying security may not meet the requirements set forth in paragraphs (a)(1), (a)(2), (b)(1) and (b)(2) of that Interpretation, the Exchange nonetheless could list and trade an option on such underlying security if (1) the underlying security meets the criteria for continued listing in CBOE Rule 5.4, and (2) options on such underlying security are listed and traded on at least one other registered national securities exchange. In connection with the proposed changes, the Exchange represents that the procedures currently employed to determine whether a particular underlying security meets the initial listing criteria will similarly be applied to the continued listing criteria.

The Exchange believes that this proposal is narrowly tailored to address the circumstances where an options class is currently ineligible for listing on the Exchange while at the same time, such option is trading on another options exchange(s). The Exchange notes that when an underlying security meets the Exchange's continued listing criteria and at least one other exchange trades options on the underlying security, the option is already available to the investing public. Therefore, the Exchange notes that the current proposal will not introduce any inappropriate additional listed options classes. Further, the adoption of the proposal is for competitive purposes and to promote a free and open market for the benefit of investors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[6] and the rules and regulations under the Act applicable to national securities exchanges. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for 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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. 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–2007–114 on the subject line.

[4] Section 18(b)(1)(A) of the Securities Act of 1933 (''Securities Act'') provides, ''[a] security is a covered security if such security is—A. listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market (or any successor to such entities) * * *.'' *See* 15 U.S.C. 77r(b)(1)(A).

[5] *See* Interpretation .01(b)(2)(A) of Rule 5.3. For purposes of this Interpretation, the market price of an underlying security is measured by the closing price reported in the primary market in which the underlying security is traded.

[6] 15 U.S.C. 78s(b).

[7] 15 U.S.C. 78f(b)(5).

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–2007–114. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–114 and should be submitted on or before December 7, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposal is narrowly tailored to address the circumstances where an equity option class is currently ineligible for initial listing on the Exchange even though it meets the Exchange's continued listing standards and is trading on another options exchange. Allowing CBOE to list and trade options on such underlying securities should help promote competition among the exchanges that list and trade options. The Commission notes, and the Exchange represents, that the procedures that the Exchange currently employs to determine whether a particular underlying security meets the initial equity option listing criteria for the Exchange will similarly be applied when determining whether an underlying security meets the Exchange's continued listing criteria.

The Commission finds good cause, pursuant to section 19(b)(2)(B) of the Act,[10] for approving the proposed rule change prior to the 30th day after the publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that the proposed rule change is substantially identical to the proposed rule change submitted by the American Stock Exchange LLC,[11] which was previously approved by the Commission after an opportunity for notice and comment, and therefore does not raise any new regulatory issues.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2007–114), as amended, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Nancy M. Morris,

Secretary.

[FR Doc. E7–22412 Filed 11–15–07; 8:45 am]

BILLING CODE 8011–01–P

[8] 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).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] *See* Securities Exchange Act Release No. 56598 (October 2, 2007), 72 FR 57615 (October 10, 2007) (SR–Amex–2007–48). *See also* Securities Exchange Act Release Nos. 56647 (October 11, 2007), 72 FR 58702 (October 16, 2007) (SR–ISE–2007–80) (substantially identical proposed rule change approved on an accelerated basis) and 56717 (October 29, 2007), 72 FR 62508 (November 5, 2007) (SR–Phlx–2007–73) (substantially identical proposed rule change approved on an accelerated basis).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5990]

Culturally Significant Objects Imported for Exhibition Determinations: Assorted Paintings by Gerome and Dahl

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be exhibited include four paintings by Jean-Leon Gerome and three paintings by Johan Christian Dahl, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the seven exhibit objects at the Nineteenth-Century European Paintings and Sculpture Galleries of The Metropolitan Museum of Art, New York, NY, from on or about December 3, 2007, until on or about December 3, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 8, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs Department of State.

[FR Doc. E7–22448 Filed 11–15–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 15, 2007, Vol. 72, No. 157, Page 45864. FAR Part 43 prescribes the rules governing maintenance, rebuilding, and alteration of aircraft and aircraft components, and is necessary to ensure this work is performed by qualified persons, and at proper intervals.

DATES: Please submit comments by December 17, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Maintenance, Preventive Maintenance, Rebuilding, and Alteration.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0020.

Forms(s) FAA Form 337.

Affected Public: An estimated 87,769 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 1.6 hours per response.

Estimated Annual Burden Hours: An estimated 138,083 hours annually.

Abstract: FAR Part 43 prescribes the rules governing maintenance, rebuilding, and alteration of aircraft and aircraft components, and is necessary to ensure this work is performed by qualified persons, and at proper intervals. This work is done by certified mechanics, repair stations, and air carriers authorized to perform maintenance.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: Issued in Washington, DC, on November 9, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5688 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Announcement of Application Procedure and Deadlines for the Truck Parking Initiative

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; solicitation of applications.

SUMMARY: This notice solicits applications for the truck parking initiative for which funding is available under section 1305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). SAFETEA–LU directed the Secretary to establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System. States, metropolitan planning organizations (MPOs) and local governments are eligible for the funding available for fiscal years (FY) 2006–2009. Section 1305 allows for a wide range of eligible projects, ranging from construction of spaces and other capital improvements to using intelligent transportation systems (ITS) technology to increase information on the availability of both public and private commercial vehicle parking spaces. For purposes of this program, long-term parking is defined as parking available for 10 or more consecutive hours.

DATES: Applications must be received by the FHWA Division Office no later than February 14, 2008.

ADDRESSES: The FHWA Division Office locations can be found at the following URL: *http://www.fhwa.dot.gov/field.html#fieldsites.*

FOR FURTHER INFORMATION CONTACT: Mr. Michael P. Onder, Office of Freight Management and Operations, (202) 366–2639, *michael.onder@dot.gov,* for legal questions, Mr. Robert Black, Office of the Chief Counsel, (202) 366–1359, *robert.black@dot.gov;* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the Office of the **Federal Register's** home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.*

I. Background

The Truck Parking Initiative furthers the goals of the Department of Transportation's new National Strategy to Reduce Congestion on America's Transportation Network, announced on May 16, 2006.[1] By creating a program that provides funds to address long-term truck parking on the National Highway System, the Department anticipates that commercial motor vehicles will be better able to plan rest stops and better time their transit or loading/unloading within urban areas, thereby reducing the urban area's congestion.

The shortage of long-term truck parking on the National Highway System (NHS) is a problem that needs to be addressed. The 2002 FHWA Report ''*Study of Adequacy of Parking Facilities*'' [2] indicated that while truck parking shortages are either non-existent or corridor-specific in some States, severe and pervasive shortages exist in some States and regions. The report recommendations include expansion or improvement of public rest areas; expansion or improvement of commercial truck stops and travel plazas; use of public-private partnerships; educating or informing drivers about available spaces; and changing current parking rules. This lack of available parking not only adds to congestion in urban areas, but also may affect safety by reducing the opportunities for drivers to obtain rest needed to comply with the Federal Motor Carrier Safety Regulations, Hours

[1] Speaking before the National Retail Federation's annual conference on May 16, 2006, in Washington, D.C., former U.S. Department of Transportation Secretary Norman Mineta unveiled a new plan to reduce congestion plaguing America's roads, rail, and airports. The National Strategy to Reduce Congestion on America's Transportation Network includes a number of initiatives designed to reduce transportation congestion. The transcript of these remarks is available at the following URL: *http://dot.gov/minetasp051606.htm.*

[2] A copy of this document is available at *http://safety.fhwa.dot.gov/media/repctoc.htm.*

of Service of Drivers (49 CFR 395.3(a)(1)), which prohibit ''driving more than 11 cumulative hours following 10 consecutive hours off-duty.'' Further, parking areas are often designed or maintained for short-term parking only, and as a result, allow parking for limited time periods. Section 1305 of SAFETEA–LU (Pub. L. 109–59; Aug. 10, 2005) directed the Secretary of Transportation to establish a pilot program to address the long-term parking shortages along the NHS. Eligible projects under section 1305 include projects that:

1. Promote the real-time dissemination of publicly or privately provided commercial motor vehicle parking availability on the NHS using ITS and other means;

2. Open non-traditional facilities to commercial motor vehicle parking, including inspection and weigh stations, and park and ride facilities;

3. Make capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year round;

4. Construct turnouts along the NHS (which must comply with appropriate design standards) to facilitate commercial motor vehicle access to parking facilities, and/or improve the geometric design of interchanges to improve access to commercial motor vehicle parking facilities. This should include improvements to the local street network or access to the proposed parking site. Applicable references, including standards, recommended industry practices, and references that provide technical guidance to assist State and local agencies in addressing truck parking issues, are listed below:

AASHTO (*www.transportation.org*)
- A Policy on Geometric Design of Highways and Streets, 2004 (Green Book)
- A Policy on Design Standards Interstate System, January 2005
- Guide to Park and Ride Facilities, 2004
- Guide for Development of Rest Areas on Major Arterials and Freeways, Third Edition

Transportation Research Board (*http://trb.org*)
- Access Management Manual

Institute of Transportation Engineers (*www.ite.org*)
- Transportation Impact Analysis for Site Development: An ITE Proposed Recommended Practice, 2006

5. Construct commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas; and

6. Construct safety rest areas that include parking for commercial motor vehicles.

The FHWA believes that projects designed to disseminate information on the availability and/or location of public or private long-term parking spaces provide the greatest opportunity to maximize the effectiveness of this pilot program.

The FHWA Administrator, acting on behalf of the Secretary of Transportation, is authorized to provide Federal grant assistance for the Truck Parking Facilities pilot grant program on a discretionary basis. After reviewing the proposals from the FY06 and FY07 solicitations, the Administrator has decided that the best approach to implementing this program, and the approach that will provide the most comprehensive and best return on investment, is to apply this program on a corridor-wide basis. Many of the FY06 and FY07 proposals were meritorious. However, choosing from among those proposals would have resulted in spot relief at isolated locations across the Interstate system. Applying this program to a congested corridor focuses limited resources where deployment provides a mechanism to potentially solve long-term commercial motor vehicle parking for a section of the Interstate system.

Accordingly, FHWA will give priority consideration to applications for Truck Parking projects from those States, MPO's and local governments that have measurable safety, congestion reduction and air quality benefits that are located within a Corridor of the Future. The States within these corridors have already proposed congestion mitigation and safety plans for accommodating freight traffic through their corridors, and have been selected as candidates to implement those plans should the necessary funding become available. The selected Corridors of the Future can be found at *http://www.fightgridlocknow.gov/corridors.htm.* The FHWA seeks solutions from a corridor perspective and encourages multi-State cooperation in proposing for this grant program.

The congestion reduction criteria also support the objectives of the *National Strategy to Reduce Congestion on America's Transportation Network* (the ''Congestion Initiative'') established in May 2006 by the Department.

The candidate projects must meet the eligibility criteria for the Truck Parking Initiative program and will be evaluated on the selection criteria established for the program along with the safety and congestion criteria described below. Although funding for the Truck Parking Initiative is limited, large-scale corridor focused projects are encouraged to apply for Truck Parking Initiative funding.

Highway safety has been an increasing focus and priority for FHWA over the recent past. Targeting discretionary funding, in a results-oriented comprehensive approach to safety, is a means of directing limited discretionary funding to those projects that will yield tangible transportation and safety benefits. With respect to safety, applicants should describe the safety benefits associated with the project or activity for which funding is sought, including whether the project, activity, or improvement:

- Will result in a measurable reduction in the loss of property, injury, or life;
- Incorporates innovative safety design or operational techniques, including variable pricing for congestion reduction, electronic tolling, barrier systems, and intersection-related enhancements;
- Incorporates innovative construction work zone strategies to improve safety;
- Is located on a rural road that is in need of priority attention based on analysis of safety experience; and/or
- Is located in an urban area of high injury or fatality, and is an initiative to improve the design, operation or other aspect of the existing facility that will result in a measurable safety improvement.

Increasing mobility by reducing congestion has also been a priority for FHWA over the past few years. The application of discretionary funding to improve mobility and reduce congestion will yield tangible transportation and economic benefits that should far exceed the limited amount of discretionary funding provided to the project. In furtherance of measuring the congestion reduction and mobility benefits associated with a project that qualifies for funding under the Truck Parking Initiative program, within the application, the applicant should describe how the project, activity or improvement:

- Relieves congestion in an urban area or along a major transportation corridor;
- Employs operational and technological improvements that promote safety and congestion relief; and/or addresses major freight bottlenecks.

Appropriate quantitative data should be provided to support the safety and congestion relief discussion.

For more information on the DOT Congestion Initiative, please refer to *http://www.fhwa.dot.gov/congestion/index.htm.*

II. Funding Information

Section 1305 authorizes $6.25 million in contract authority for each of the fiscal years 2006 through 2009. The obligation limitation reduction reduces the total amount of contract authority that is available for obligation. Funds authorized to carry out this section remain available until expended.

The Administrator has determined that all 4 years of discretionary contracting authority under the program may be made available through this single solicitation. No awards will be made for the proposals received in response to the FY06 and FY07 solicitations. Instead, funds for 2006 and 2007 will be redirected under this comprehensive approach. Funds from FY08 and FY09 may be allocated in response to this solicitation, but would not be available for obligation until the fiscal year the funds are made available for obligation.

Projects funded under this section shall be treated as projects on a Federal-aid System under Chapter 1 of Title 23, United States Code.

Grants may be funded at an 80 to 100 percent funding level based on the criteria specified in Sections 120(b) and 120(c) of Title 23, United States Code.

III. Application Submission

This memo will also be posted on the FHWA Office of Freight Management and Operations Web site, *http://www.ops.fhwa.dot.gov/freight.* An original and 10 copies of each application must be submitted by a State Department of Transportation to the FHWA's Office of Freight Management and Operations, via the FHWA Division Office in the State in which the application was submitted. The FHWA Division Office locations can be found at the following URL: *http://www.fhwa.dot.gov/field.html#fieldsites.* Electronic submissions will not be accepted. Awarded projects will be administered by the applicable State Department of Transportation as a Federal-aid grant.

In accordance with the Paperwork Reduction Act, we have received clearance from OMB for this action (OMB Control number 2125–0610, March 31, 2010).

IV. Proposal Content

All proposals should include the following:

1. A detailed project description, which would include the extent of the long-term truck parking shortage in the corridor to be addressed, along with contact information for the project's primary point of contact, and whether funds are being requested under 23 U.S.C. 120(b) or 120(c). Data helping to define the shortage may include truck volume (Average Daily Truck Traffic—ADTT) in the corridor to be addressed, current number of long-term commercial motor vehicle parking spaces, use of current long-term parking spaces, driver surveys, observational field studies, proximity to freight loading/unloading facilities, and proximity to the NHS.

2. The rationale for the project should include an analysis and demonstration of how the proposed project will positively affect truck parking, safety, traffic congestion, or air quality in the identified corridor. Examples may include: Advance information on availability of parking that may help to reduce the number of trucks parked on roadsides and increase the use of available truck parking spaces.

3. The scope of work should include a complete listing of activities to be funded through the grant, including technology development, information processing, information integration activities, developmental phase activities (planning, feasibility analysis, environmental review, engineering or design work, and other activities), construction, reconstruction, acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

4. Stakeholder identification should include evidence of prior consultation and/or partnership with affected MPOs, local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations. Also, include a listing of all public and private partners, and the role each will play in the execution of the project. Commitment/consultation examples may include: Memorandums of Agreement, Memorandums of Understanding, contracts, meeting minutes, letters of support/commitment, and documentation in a metropolitan transportation improvement program (TIP) or statewide transportation improvement program (STIP).

5. A detailed quantification of eligible project costs by activity, an identification of all funding sources that will supplement the grant and be necessary to fully fund the project, and the anticipated dates on which the additional funds are to be made available. Public and private sources of funds (non-Federal commitment) will be considered by the FHWA as an in-kind match contributing to the project. State matching funds will be required for projects eligible under 23 U.S.C. 120(b).

6. Applicants should provide a timeline that includes work to be completed and anticipated funding cycles. Gantt charts are preferred.

7. Environmental process: Please include a timeline for complying with the National Environmental Policy Act (NEPA) process, if applicable, or if not applicable, include a statement to that effect.

8. Include a project map that consists of a schematic illustration depicting the project and connecting transportation infrastructure. (Although no proposals are to be submitted electronically, digital maps would be preferred. Please indicate in the proposal if the maps are available digitally.)

9. Measurement Plan. Submitter should describe a measurement plan to determine whether or not the project achieved its intended results. The measurement plan should continue for 3 years beyond the completion date of the project. After the 3-year period, a final report quantifying the results of the project should be submitted to the FHWA.

10. Proposals may not exceed 20 pages in length.

V. Applicant Review Information

Grant applications that contain the elements detailed in this notice will be scored competitively according to the soundness of their methodology and subject to the criteria listed below. Sub-factors listed under each factor are of equal importance unless otherwise noted.

A. Scoring Criteria

1. Demonstration of severe shortage (number of spaces, access to existing spaces or information/knowledge of space availability) of commercial motor vehicle parking capacity/utilization in the corridor. (Multi-State highway corridors are the focus of these projects. Consider the business requirements of getting the goods to market, while also considering the government regulations associated with hours of service.) (20 percent)

Examples used to demonstrate severe shortage may include:

- Average Daily Truck Traffic (ADTT) in proposal area.
- Average daily shortfall of truck parking in proposal area.
- Ratio of ADTT to average daily shortfall of truck parking in proposal area.
- Proximity to NHS.

2. The extent to which the proposed solution resolves the described shortage (35 percent).

Examples should include:

○ Number of truck parking spaces per day that will be used as a result of the proposed solution.

○ The effect on highway safety, traffic congestion, and/or air quality.

3. Cost effectiveness of proposal (25 percent).

Examples should include:

○ How many truck parking spaces will be used per day per dollar expended?

○ Total cost of project, including all non-Federal funds that will be contributed to the project.

4. Scope of proposal (20 percent).

Examples should include:

○ Evidence of a wide range of input from affected parties, including State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations.

○ Whether the principles outlined in the proposal can be applied to other locations/projects and possibly serve as a model for other locations.

B. Review Standards

1. All applications for grants should be submitted to the FHWA Division Office by the State DOT by the date specified in this notice.

2. State DOTs should ensure that the project proposal is compatible with or documented on their planning documents (TIP and STIP). They should also validate, to the extent the can, any analytic data.

3. Each application will be reviewed for conformance with the provisions in this notice.

4. Applications lacking any of the mandatory elements or arriving after the deadline for submission will not be considered. To assure full consideration, proposals should not exceed 20 pages in length.

5. Applicants may be contacted for additional information or clarification.

6. Applications complying with the requirements outlined in this notice will be evaluated competitively by a panel selected by the Director, Office of Freight Management and Operations, and will be scored as described in the scoring criteria.

7. If the FHWA determines that the project is technically or financially unfeasible, FHWA will notify the applicant, in writing.

8. The FHWA reserves the right to partially fund or request modification of projects.

9. All information described in the submitter's proposal elements should be quantifiable and sourced.

10. Submitter should describe a measurement plan to determine whether or not the project will achieve its intended results. The measurement plan should continue for 3 years beyond the date of the project. After a 3-year period, a final report quantifying the results of the project should be submitted to the FHWA.

11. The proposed projects should not compete with local businesses or commercial enterprises.

VI. Selection Process

The grant applications will be ranked by final score. The FHWA will select applications based on those rankings, subject to the availability of funds.

VII. Award Administration Information

A. Award Notices

The FHWA recognizes that each funded project is unique, and therefore may attach conditions to different projects' award documents. The FHWA will send an award letter with a grant agreement that contains all the terms and conditions for the grant. These successful applicants must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

B. Performance Reporting and Measurement

Failure to provide the measurement plan will be considered during the past-performance element of future grant applications.

Authority: Section 1305, Pub. L. 109–59; 119 Stat. 1214; Aug. 10, 2005.

Issued on: November 8, 2007.

J. Richard Capka,

Administrator, Federal Highway Administration.

[FR Doc. E7–22432 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2005–23112]

Motorcyclist Advisory Council to the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting of advisory committee and change to membership.

SUMMARY: This document announces the third meeting of the Motorcyclist Advisory Council to the Federal Highway Administration (MAC–FHWA). The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the Federal Highway Administration, on infrastructure issues of concern to motorcyclists, including (1) barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies, pursuant to section 1914 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

DATES: The third meeting of the MAC–FHWA is scheduled for December 5–6, 2007, from 10 a.m. until 5 p.m. on December 5, 2007, and from 9 a.m. until 1 p.m. on December 6, 2007.

ADDRESSES: The third MAC–FHWA meeting will be held at the Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Halladay, the Designated Federal Official, Office of Safety, 202–366–2288, (*michael.halladay@dot.gov*), or Dr. Morris Oliver, Office of Safety, 202–366–2288, (*morris.oliver@dot.gov*), Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144). Section 1914 of SAFETEA–LU mandates the establishment of the Motorcyclist Advisory Council as follows: ''The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the U.S. House of Representatives and the Committee on Environment and Public Works of the United States Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) Barrier design;

(2) Road design, construction, and maintenance practices; and

(3) The architecture and implementation of intelligent transportation system technologies.''

In addition, section 1914 specifies the membership of the council: ''The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(1) At least—

(A) One member recommended by a national motorcyclist association;

(B) One member recommended by a national motorcycle riders foundation;

(C) One representative of the National Association of State Motorcycle Safety Administrators;

(D) Two members of State motorcyclists' organizations;

(E) One member recommended by a national organization that represents the builders of highway infrastructure;

(F) One member recommended by a national association that represents the traffic safety systems industry; and

(G) One member of a national safety organization; and

(2) At least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials.''

To carry out this requirement, the FHWA published a notice of intent to form an advisory committee in the **Federal Register** on December 23, 2005 (70 FR 76353). This notice, consistent with the requirements of the Federal Advisory Committee Act (FACA), announced the establishment of the Council and invited comments and nominations for membership. The FHWA announced the ten members selected to the Council in the **Federal Register** on October 5, 2006 (71 FR 58903). An electronic copy of this document and the previous **Federal Register** notices associated with the MAC–FHWA can be downloaded through the Federal eRulemaking Portal at: *http://www.regulations.gov* and the Office of the Federal Register's home page at: *http://www.archives.gov/federal_register*.

This notice also serves to identify changes in the MAC–FHWA membership due to changes in the employment status for two persons. Due to his semi-retirement, Mr. Robert J. McClune has been replaced by Mr. Dean Tisdall as a member recommended by the traffic safety systems industry. Mr. Mark Bloschock has retired from the Texas Department of Transportation and no longer fulfills the criterion of a motorcyclist who is a State transportation department official. An additional person will not be substituted for Mr. Bloschock as the charter requires ''at least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials'' and, Mr. Donald Vaughn of the Alabama Department of Transportation, an original member of the MAC–FHWA, is currently fulfilling that requirement.

The FHWA anticipates that the MAC–FHWA will meet at least once a year, with meetings held in the Washington, DC metropolitan area and the FHWA will publish notices in the **Federal Register** to announce the times, dates, and locations of these meetings. Meetings of the Council are open to the public and time will be provided in each meeting's schedule for comments by members of the public. Attendance will necessarily be limited by the size of the meeting room. Members of the public may present oral or written comments at the meeting or may present written materials by providing copies to Ms. Fran Bents, Westat, 1650 Research Boulevard, Rockville, MD 20850–3195, (240) 314–7557, ten (10) days prior to the meeting.

The agenda topics for the meetings will include a discussion of the following issues: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies.

Conclusion

The third meeting of the Motorcyclist Advisory Council to the Federal Highway Administration will be held on December 5–6, at the Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202 from 10 a.m. until 5 p.m. on December 5, 2007, and from 9 a.m. until 1 p.m. on December 6, 2007.

(Authority: Section 1914 of Pub. L. 109–59; Pub. L. 92–463, 5 U.S.C., App. II § 1)

Issued on: November 5, 2007.

J. Richard Capka,

Administrator, Federal Highway Administration.

[FR Doc. E7–22433 Filed 11–15–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35066]

Columbia Basin Railroad Company, Inc.—Acquisition and Operation Exemption—BNSF Railway Company and BNSF Acquisition, Inc.

Columbia Basin Railroad Company, Inc. (CBRW), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, by purchase pursuant to an agreement it anticipates entering into with BNSF Railway Company and BNSF Acquisition, Inc., and to operate approximately 74 miles of rail lines as follows: (1) From milepost 186.9 at or near Connell to milepost 145.7 at or near Wheeler, WA; (2) from milepost 0.0 at or near Bassett Junction to milepost 12.5 at or near Schrag, WA; (3) from milepost 20.0 at or near Moses Lake to milepost 5.6 at or near Sieler, WA; and (4) from milepost 5.6 at or near Sieler to milepost 0.0 at or near Wheeler. In addition, CBRW intends to acquire incidental trackage rights for local and overhead rail service over approximately 13 miles of rail line from milepost 1987 at or near Othello to the end of the track at milepost 1974 at or near Warden, WA. CBRW has leased, operated and performed trackage rights services over substantially the same rail lines since December 1996.[1]

CBRW certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

CBRW states that it intends to consummate the transaction on or after December 1, 2007, but shall in no event consummate the transaction before the Board either grants its petition for waiver of the 60-day labor notice requirement or CBRW satisfies the applicable labor notice requirement at 49 CFR 1150.42(e).[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than 7 days before the exemption becomes effective.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35066, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 9, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22359 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Columbia Basin Railroad Company, Inc.—Exemption to Lease and Operate—Burlington Northern Railroad Co. and BNSF Acquisition, Inc.,* STB Finance Docket No. 33140 (STB served Dec. 13, 1996).

[2] On November 1, 2007, CBRW concurrently filed a certification of labor notice compliance and a petition for waiver of the 60-day advance labor notice requirement at 49 CFR 1150.42(e). That request will be addressed in a separate decision. Unless the Board grants the waiver request, the earliest this transaction may be consummated will be December 31, 2007.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35098]

Genesee & Wyoming Inc.—Control Exemption—Maryland Midland Railway, Inc.

Genesee & Wyoming Inc. (GWI), a noncarrier, has filed a verified notice of exemption [1] to permit GWI to acquire indirect control of Maryland Midland Railway, Inc. (MMID), upon consummation of a merger agreement between GWI, MMID Holding Inc. (MMID Holding), MMID Acquisition Sub Inc. (MMID–ASI), and MMID.[2] Pursuant to the merger agreement, MMID–ASI will merge with MMID and the surviving corporation will continue as MMID. MMID's sole shareholder will be MMID Holding and GWI will own a majority of shares of MMID Holding. Accordingly, MMID Holding will have direct control and GWI will have indirect control over MMID.[3]

GWI is a noncarrier holding company that directly or indirectly controls one Class II carrier and 24 Class III carriers, as well as additional carriers with two of its wholly owned subsidiaries that are noncarrier holding companies (RP Acquisition Company One and RP Acquisition Company Two).[4] MMID is a Class III rail carrier that owns lines of railroad located: Between approximately milepost 69.7 at or near Highfield, MD, and approximately milepost 19.9 at or near Emory Grove, MD; and between approximately milepost 60.1 at or near Walkersville, MD, and approximately milepost 39.6 at or near Littlestown, PA.[5]

The transaction is scheduled to be consummated on or after the date that exemption covered by this notice becomes effective (which will occur on December 2, 2007).

Applicants state that: (i) The rail lines involved in this transaction do not connect with any rail lines now controlled, directly or indirectly, by GWI; (ii) this transaction is not part of a series of anticipated transactions that would connect any of these rail lines with each other; and (iii) this transaction does not involve a Class I carrier.[6] Therefore, this transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 23, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35098, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart Preston Gates Ellis LLP, 1601 K Street, NW., Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 13, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22423 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

[1] The notice was initially filed on October 22, 2007. On October 29, 2007, a petition to reject the notice was filed by Patriot Rail Corp. (Patriot). On November 2, 2007, a response to Patriot's petition was filed by GWI (November 2 filing). Because the notice was supplemented by the November 2 filing, that date will be considered the filing date.

[2] The full version of the merger agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. A decision granting GWI's motion for protective order was issued on November 9, 2007.

[3] According to GWI, MMID Holding is not listed as an applicant in the verified notice of exemption because MMID Holding will obtain control of only one rail carrier (MMID) following consummation of the proposed merger transaction and therefore does not need to obtain an exemption under 49 U.S.C. 11323.

[4] The members of the GWI family of railroads own and/or operate rail property located in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, and Wisconsin.

[5] Concurrent with this notice, MMID is seeking authority to acquire and operate three rail lines owned by the Maryland Transit Administration in STB Finance Docket No. 35099, *Maryland Midland Railway, Inc.—Acquisition and Operation Exemption—Certain Assets of the Maryland Transit Administration.*

[6] The basis of Patriot's petition to reject this notice of exemption was its contention that GWI failed to comply with the second criterion. Patriot's petition has been denied by the Board in a separate decision in this docket.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35099]

Maryland Midland Railway, Inc.—Acquisition and Operation Exemption—Certain Assets of the Maryland Transit Administration

Maryland Midland Railway, Inc. (MMID), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, by purchase from the State of Maryland, acting by and through the Maryland Transit Administration (MTA), two active rail lines, totaling approximately 28 miles. The two active lines extend from milepost 32.6 at or near Westminster, MD, to milepost 24.3 at or near Cedarhurst, MD, and milepost 60.1 at or near Walkersville, MD, to milepost 39.6 at or near Littlestown, PA. In its notice, MMID also seeks to acquire, by purchase from the State of Maryland, acting by and through MTA, and operate approximately 6 miles of inactive rail line. The inactive line extends from milepost 45.1 at Taneytown, MD, to milepost 39.6 at Littlestown.

This transaction is related to the concurrently filed notice of exemption in STB Finance Docket No. 35098, *Genesee & Wyoming Inc.—Control Exemption—Maryland Midland Railway, Inc.* (FD 35098), wherein Genesee & Wyoming Inc. (GWI), seeks to acquire indirect control of MMID.[1]

Based on projected revenues for the lines being acquired, MMID expects to remain a Class III rail carrier after consummation of the proposed transaction. MMID certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

MMID states that, due to an inadvertent error, it already has acquired the lines from MTA, pursuant to a purchase and sale agreement that was executed on February 16, 2005, and a quitclaim deed that was executed on January 23, 2006. MMID states that it is filing this notice of exemption to correct this error.

Because the projected annual revenues of the lines, together with MMID's projected annual revenue, will

[1] The notice of exemption in this proceeding was filed initially on October 22, 2007. However, the related notice of exemption in FD 35098 was supplemented on November 2, 2007, and the filing date of that notice therefore was considered to be November 2, 2007. Because the supplemental information pertains to the transaction that is the basis of both proceedings, the filing date for the notice of exemption in this proceeding also is considered to be November 2, 2007.

exceed $5 million, MMID is required, at least 60 days before an exemption is to become effective, to send notice of the transaction to the national and local offices of the labor unions with employees on the affected lines and post a copy of the notice at the workplace of the employees on the affected lines and certify to the Board that it has done so. 49 CFR 1150.42(e). MMID attached to its October 22, 2007 submission of the notice of exemption a certification of posting of the labor notice, which states that the requisite labor notice was posted at the workplace of those affected MMID employees on October 22, 2007. MMID notes that those employees are not represented by national labor unions and therefore no notice has been provided to such unions.

MMID has requested a waiver of the requirement in 49 CFR 1150.42(e), asking that this notice become effective 30 days after it has been filed, rather than the requisite 60 days. MMID argues for the waiver, stating that it has been operating the two active lines for 15 years and will continue to be the operator of these lines, and because the inactive line has had no traffic for several years, there are no affected employees on this line. The waiver request will be addressed by the Board in a separate decision in this proceeding.

As a result, the earliest this transaction will be considered to be consummated will be either 60 days after MMID's October 22 certification that it has satisfied the requirements of section 1150.42(e) or any earlier date established by the Board if the Board grants the requested waiver.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than 7 days before the exemption becomes effective.[2]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35099, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on R.W. Smith, Jr., DLA Piper U.S. LLP, 6225 Smith Avenue, Baltimore, MD 21209.

[2] In the absence of a waiver granted by the Board, the earliest the exemption could become effective would be December 21, 2007 (60 days after MMID has certified that it has satisfied the requirements of section 1150.42(e)).

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 13, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22436 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–721X]

Everett Railroad Company—Discontinuance of Service Exemption—in Blair County, PA

Everett Railroad Company (ERC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 1.5-mile line of railroad between milepost 22.5 (at approximately 0.5 miles south of the line's crossing of Cross Cove Road) and milepost 24.0 (at the current end of track immediately east of the line's at-grade crossing of Pennsylvania State Highway 866), in Blair County, PA. The line traverses United States Postal Service Zip Code 16662.

ERC has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that has been, or would need to be, rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 18, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by November 26, 2007.[2] Petitions to reopen must be filed by December 6, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to ERC's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 9, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22430 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–268 (Sub-No. 16X) and STB Docket No. AB–355 (Sub-No. 34X)]

Portland Terminal Company—Abandonment Exemption—in Cumberland County, ME; and Springfield Terminal Railway Company—Discontinuance of Service Exemption—in Cumberland County, ME

Portland Terminal Company (PT) and Springfield Terminal Railway Company (ST) (collectively, applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for PT to abandon, and for ST to discontinue service over, approximately 1.3 miles of railroad known as the Mountain Branch in Westbrook, ME, extending from milepost 6.0 to milepost 7.3 in Cumberland County, ME. The line traverses United States Postal Service

[1] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Zip Code 04092, and includes no stations.

PT and ST have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on December 18, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 26, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 6, 2007, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Michael Q. Geary, Iron Horse Park, North Billerica, MA 01862.

If the verified notice contains false or misleading information, the exemptions are void *ab initio*.

PT and ST have filed an environmental and historic report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 23, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PT's filing of a notice of consummation by November 16, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 7, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22153 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–435 (Sub-No. 2X)]

Willamette Valley Railway Company—Discontinuance of Service Exemption—in Linn County, OR

Willamette Valley Railway Company (WVR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 48.77-mile line of railroad known as the Mill City Branch owned by Union Pacific Railroad Company (UP) extending from: (1) Milepost 689.64 at or near Page, OR, to a mileage equation at milepost 697.37, equivalent to milepost 684.67, thence to milepost 690.97 at or near Lebanon, OR; and (2) milepost 690.97 at or near Lebanon to the end of the track at milepost 725.71 at or near Mill City, OR, in Linn County, OR.[1] The line traverses United States Postal Service Zip Codes 97321, 97322, 97355, and 97360.

WVR has certified that: (1) No traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C.91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 18, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[2] must be filed by November 26, 2007.[3] Petitions to reopen must be filed by December 6, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to WVR's representative: Thomas F. McFarland,

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

[1] In February 1993, WVR leased the Mill City Branch and other rail lines in Oregon from UP's predecessor, Southern Pacific Transportation Company. WVR operated the Mill City Branch until October 2000, when the lease was amended to include Albany & Eastern Railroad Company (AERC) as a joint lessee with WVR. Since October 2000, the Mill City Branch has been operated exclusively by AERC; WVR operates the other rail lines in Oregon on an exclusive basis.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 13, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–22437 Filed 11–15–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–21: OTS Nos. 15954 and H–4467]

Kaiser Federal Bank, Covina, California, and Kaiser Federal Financial Group, Inc., Covina, CA; Approval of Conversion Application

Notice is hereby given that on November 9, 2007, the Office of Thrift Supervision approved the application of Kaiser Federal Bank, Covina, California, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS West Regional Office, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California 94014–1976.

Dated: November 9, 2007.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 07–5714 Filed 11–15–07; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

United States Mint

Price Increase for First Spouse Gold Coin

ACTION: Notification of First Spouse Gold Coin Price Increases.

SUMMARY: Recent increases in the price of gold require that the United States Mint raise the sale prices on its upcoming offering of the Dolley Madison First Spouse Gold Coins.

Pursuant to the authority that 31 U.S.C. 5112(o)(1) & (4) grants to the Secretary of the Treasury to mint and issue one-half ounce gold bullion First Spouse coins, and to set their sale prices, the United States Mint is changing the price of these coins to reflect the increase in value of the precious metal content of the coins. This change is attributable to recent increases in the market price of gold, which has increased substantially since the initial prices were set for the First Spouse Gold Coins.

Accordingly, effective November 19, 2007, the United States Mint will commence selling the following Dolley Madison First Spouse Gold Coins at the prices indicated below:

Description	Price
Dolley Madison First Spouse Gold Proof Coins	$529.95
Dolley Madison First Spouse Gold Uncirculated Coins	509.95

FOR FURTHER INFORMATION CONTACT: Gloria C. Eskridge, Associate Director for Sales and Marketing, United States Mint, 801 Ninth Street, NW., Washington, DC 20220; or call (202) 354–7500.

Authority: 31 U.S.C. 5112 & 9701.

Dated: November 9, 2007.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E7–22417 Filed 11–15–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—New (Pay Now Enter Info Page)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to electronically submit payment for debts owed.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 15, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to David Sturm, VA Debt Management Center, Bishop Henry Whipple Federal Building, P.O. Box 11930, St. Paul, MN 55111–0930 or e-mail to: *DMCDSTUR@VBA.VA.GOV.* Please refer to ''OMB Control No. 2900–0663'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David Sturm at (612) 970–5702 or Fax (612) 970–5687.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Pay Now Enter Info Page.

OMB Control Number: 2900–0663.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants who participated in VA's benefit programs and owe debts to VA can voluntarily make online payments through VA's Pay Now Enter Info Page Web site. Data entered on the Pay Now Enter Info Page is redirected to the Department of Treasury's Pay.gov Web site, allowing claimants to make payments with credit or debit cards, or directly from their bank account. At the conclusion of the transaction, the claimant will receive a confirmation acknowledging the success or failure of the transaction.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,000 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Daily.

Estimated Number of Respondents: 30,000.

Dated: November 7, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–22370 Filed 11–15–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0028]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Information and Technology (IT), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed from service organizations requesting to be placed on VA's mailing lists for specific publications; to request additional information from the correspondent to identify a veteran; to request for and consent to release of information from claimant's records to a third party; and to determine an applicant's eligibility to receive a list of names and addresses of veterans and their dependents.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 15, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to John Chambers, Jr., Department of Veterans Affairs, Records Management Service (005R1B), 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *john.chambers@va.gov.* Please refer to ''OMB Control No. 2900–0028'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Chambers, Jr. at (202) 461–7463 or fax (202) 461–0443.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, IT invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of IT's functions, including whether the information will have practical utility; (2) the accuracy of IT's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215.

b. Request for and Consent To Release of Information From Claimant's Records, VA Form 3288.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2.

d. 38 CFR 1.519(A) Lists of Names and Addresses.

OMB Control Number: 2900–0028.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA operates an outreach services program to ensure veterans and beneficiaries have information about benefits and services to which they may be entitled. To support the program, VA distributes copies of publications to Veterans Service Organizations' representatives to be used in rendering services and representation of veterans, their spouses and dependents. Service organizations complete VA Form 3215 to request placement on a mailing list for specific VA publications.

b. Veterans or beneficiaries complete VA Form 3288 to provide VA with a written consent to release his or her records or information to third parties such as insurance companies, physicians and other individuals.

c. VA Form Letter 70–2 is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a veteran. VA personnel use the information to identify the veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as processing a benefit claim or file material in the individual's claims folder.

d. Title 38 U.S.C.5701(f)(1) authorized the disclosure of names or addresses, or both of present or former members of the Armed Forces and/or their beneficiaries to nonprofit organizations (including members of Congress) to notify veterans of Title 38 benefits and to provide assistance to veterans in obtaining these benefits. This release includes VA's Outreach Program for the purpose of advising veterans of non-VA Federal State and local benefits and programs.

Affected Public: Individuals or households, Not-for-profit institutions, and State, local or tribal government.

Estimated Annual Burden: 22,700 hours.

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—25 hours.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—18,875 hours.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—3,750 hours.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—50 hours.

Estimated Average Burden per Respondent:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—10 minutes.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—7.5 minutes.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—5 minutes.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—150.

b. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—151,000.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—45,000.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—50.

Dated: November 7, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–22373 Filed 11–15–07; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 72, No. 221

Friday, November 16, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–0030; Notice 1]

Graco Children's Products, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Correction

In notice document E7–21903 beginning on page 63231 in the issue of Thursday, November 8, 2007, make the following correction:

On page 63232, in the first column, in the first full paragraph, ''December 10, 2007'' should read ''November 19, 2007''.

[FR Doc. Z7–21903 Filed 11–15–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113891–07]

RIN 1545–BG72

Benefit Restrictions for Underfunded Pension Plans

Correction

In proposed rule document 07–4262 beginning on page 50544 in the issue of Friday, August 31, 2007, make the following correction:

On page 50556, in the first column, in the third bullet point, the second sentence, beginning with ''The notice is required...'' should begin its own paragraph.

[FR Doc. C7–4262 Filed 11–15–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
November 16, 2007

Part II

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2520

Department of the Treasury

Internal Revenue Service

Pension Benefit Guaranty Corporation

Annual Reporting and Disclosure; Revision of Annual Information Return/ Reports; Final Rule and Notice

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2520

RIN 1210–AB06

Annual Reporting and Disclosure

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains amendments to Department of Labor regulations relating to annual reporting and disclosure requirements under Part 1 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The amendments contained in this document are necessary to conform the annual reporting and disclosure regulations to revisions to the Form 5500Annual Return/Report of Employee Benefit Plan, including a new Form 5500–SF (Short Form or Short Form 5500), filed for employee pension and welfare benefit plans under ERISA and the Internal Revenue Code of 1986, as amended (Code). The changes to the Form 5500 forms and implementing regulatory amendments are intended to facilitate the transition to an electronic filing system, reduce and streamline annual reporting burdens, especially for small businesses, and update the annual reporting forms to reflect current issues, agency priorities and new requirements under the Pension Protection Act of 2006. Some of the forms revisions apply on a transitional basis for the 2008 reporting year before all of the form revisions are fully implemented as part of the switch under the ERISA Filing Acceptance System (EFAST) to a wholly electronic filing system for the 2009 reporting year. The current effective date of the electronic filing requirement under 29 CFR 2520.104a-2 also is being postponed in this document to apply to plan years beginning on or after January 1, 2009. The regulatory amendments will affect the financial and other information required to be reported and disclosed by employee benefit plans filing the Form 5500 Annual Return/Report of Employee Benefit Plan, including the Form 5500–SF, under Title I of ERISA.

DATES: This rule is effective January 15, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Goodman or Michael I. Baird, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8523 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

Under Titles I and IV of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code, as amended (Code), pension and other employee benefit plans generally are required to file annual returns/reports concerning, among other things, the financial condition and operations of the plan. Filing the Form 5500, ''Annual Return/Report of Employee Benefit Plan,'' together with any required attachments and schedules (Form 5500 Annual Return/Report) through the ERISA Filing Acceptance System (EFAST) generally satisfies these annual reporting requirements. The Form 5500 Annual Return/Report is the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. In addition to being an important disclosure document for plan participants and beneficiaries, the Form 5500 Annual Return/Report is a compliance and research tool for the Department of Labor (Department), Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) (collectively, the Agencies) and a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies.

On July 21, 2006, the Agencies published a notice of proposed forms revisions (July 2006 Proposal) with changes to the Form 5500 Annual Return/Report for the 2008 reporting year. 71 FR 41615. The proposed form changes were intended to: facilitate the transition to a wholly electronic filing system for the 5500 Forms, including removal of IRS-only schedules; reduce and streamline annual reporting burdens, especially for small businesses, with the establishment of a new Short Form 5500; and update the annual reporting forms to reflect current issues and agency priorities, including enhanced reporting of plan fees and expenses. The Department also published a final rule requiring electronic filing of the Form 5500 Annual Return/Report for plan years beginning January 1, 2008 (Electronic Filing Rule). 71 FR 41359 (July 21, 2006). On December 11, 2006, the Agencies published a Notice of Supplemental Proposed Forms Revisions (Supplemental Notice). The Supplemental Notice was necessary to make changes to the Form 5500 Annual Return/Report required by the Pension Protection Act of 2006, Pub. L. 109–280, 120 Stat. 780 (2006), enacted on August 17, 2006 (PPA). 71 FR 71562.

The Department received 38 comment letters on the July 2006 Proposal from representatives of employers, plans, and plan service providers.[1] It received seven comments on the Supplemental Notice. Copies of the comments are posted on the Department's Web site at *http://www.dol.gov/ebsa/regs*.

The preamble to this Notice outlines the final amendments being adopted to the Department's annual reporting regulations to reflect the changes being adopted to the Form 5500 Annual Return/Report, the Form 5500–SF ''Short Form Annual Return/Report of Small Employee Benefits Plan'' (Form 5500–SF or Short Form 5500), and the required attachments and schedules (collectively, the 5500 Forms) published simultaneously. A comprehensive discussion of the changes to the 5500 Forms and instructions is in a separate notice of adoption of final revisions to the annual report/return forms (Forms Revision Notice) that is being published in today's **Federal Register**. To avoid unnecessary duplication, that discussion is incorporated herein by reference and only a general summary of the form and instruction changes is included in this preamble as background for the required cost/benefit and regulatory impact analyses.

B. Discussion of the Revisions to 29 CFR Part 2520

The public comments generally did not directly address the proposed regulations themselves. Rather, the comments were addressed to the scope and specifics of the proposed forms and instruction changes. As described more fully in the Form Revision Notice, the public comments generally approved of the Agencies' streamlining of the annual reporting requirements through the adoption of the new Form 5500–SF and eliminating the IRS-only schedules from the Form 5500 Annual Return/Report. The comments also generally supported the objectives of updating the annual return/report filing requirements to reflect current issues and enhancing transparency and accountability, although some commenters expressed concerns about the benefits, feasibility, and cost of complying with some of the proposed changes, particularly the

[1] The Department also received a comment letter from the United States Department of Commerce, Economic and Statistics Administration, Bureau of Economic Analysis (BEA), indicating that the BEA relies on the information collected in the Form 5500 to prepare certain statistics.

proposed changes to fee and expense reporting and the extension of the normal annual reporting requirements to Code section 403(b) plans. Some commenters also suggested postponing implementation of the proposed changes to allow filers and service providers more time to implement administrative procedures and alter information systems in order to comply with the new annual reporting requirements. The comments included suggestions for various technical adjustments of the forms and instructions to clarify and explain the new annual reporting requirements.

The following sections of this preamble describe the final regulations being adopted by the Department to implement the form and instruction changes, including a postponement of the current effective date of the Electronic Filing Rule to make it applicable one year later—for plan and reporting years beginning on or after January 1, 2009.

1. Section 2520.103–1

The Department's annual reporting regulations, including 29 CFR 2520.103–1, generally are promulgated under the provisions of ERISA that authorize the creation of limited exemptions and simplified reporting and disclosure for welfare plans under ERISA section 104(a)(3), simplified annual reports under ERISA section 104(a)(2)(A) for pension plans that cover fewer than 100 participants, and alternative methods of compliance for all pension plans under ERISA section 110(a). *See also* ERISA section 505. To accommodate the form and instruction changes set forth in the Forms Revision Notice, regulatory amendments to 29 CFR 2520.103–1 are being made to update the references in the regulation to the annual return/report as revised.

(a) Short Form 5500 (Eligible Small Plan Filers)

A new two-page Form 5500–SF is being adopted to streamline the reporting requirements for certain small pension and welfare plans (generally, plans with fewer than 100 participants) that meet certain conditions regarding their investments being held or issued by regulated financial institutions and that have a readily determinable fair market value as described in the final regulation at section 2520.103–1(c)(2)(ii)(C). The Form 5500–SF is also being adopted to provide a simplified report for plans with fewer than 25 participants as required by section 1103(b) of the PPA.[2] A detailed description of the Form 5500–SF, and a facsimile of the form and instructions are in the Forms Revision Notice being published in today's **Federal Register**. Substantially all of the information required to be reported by employee benefit plans on the Short Form 5500 currently is included in the more comprehensive information required to be reported as part of the Form 5500 simplified report currently available to small plans. The addition of the Short Form 5500 does not eliminate the existing simplified report available for small plans but, rather, adds the Short Form 5500 as another simplified reporting option for eligible small plans.

As more fully described in the Forms Revision Notice, the IRS has advised the Department that, although there are no mandatory electronic filing requirements for the 5500 Forms under the Code or the regulations issued thereunder, the electronic filing of the 5500 Forms, in accordance with the instructions and such other guidance as the Secretary of the Treasury may provide, will be treated as satisfying the annual filing and reporting requirements under Code sections 6058(a) and 6059(a). In addition, to ease the burdens on plans that are not subject to Title I of ERISA that file the Form 5500–EZ to satisfy the annual reporting and filing obligations imposed by the Code, the IRS has advised that it will permit certain Form 5500–EZ filers to satisfy the requirement to file the Form 5500–EZ with the IRS by filing the Short Form 5500 electronically through the EFAST processing system. Eligible Form 5500–EZ filers thus will have electronic filing and paper filing options. The electronic filing option will allow eligible Form 5500–EZ filers to complete and electronically file with EFAST selected information on the Short Form 5500. Those Form 5500–EZ filers will also be able to choose instead to file a Form 5500–EZ on paper with the IRS.[3]

(b) Removal of IRS-Only Schedules from the 5500 Forms Annual Return/Report

For plan years beginning after December 31, 2008, the 5500 Forms will no longer include any of the schedules that are required only for the IRS. This change was made to help effectuate the adoption of a wholly electronic filing requirement for the 5500 Forms. Accordingly, the Schedule E (ESOP Annual Information) and the Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits) will no longer be required to be filed as part of the 5500 Forms.[4] Three questions on employee stock ownership plan (ESOP) information formerly reported on the Schedule E will now be on the Schedule R (Retirement Plan Information). The IRS also has advised the Department that it intends that plan administrators, employers, and certain other entities that are subject to additional filing and reporting requirements under the Code will have to continue to satisfy any applicable requirements in accordance with IRS revenue procedures, regulations, publications, forms, and instructions.

(c) Schedule A (Insurance Information)

Schedule A must be attached to the Form 5500 Annual Return/Report for an ERISA-covered plan if any pension or welfare benefits under the plan are provided by, or if the plan holds any investment contracts with, an insurance company, insurance service or other similar organization. As with the proposal, the Schedule A data elements are largely unchanged from the current form. The Department adopted in the final Schedule A the proposed line item to give administrators a specific space on the Schedule A to report a failure by an insurance carrier to provide necessary information. Certain other technical changes and clarifications were made to the Schedule A and its instructions to improve Schedule A as a vehicle for disclosure of insurance fees and commissions.

[2] The PPA's requirement to provide simplified reporting for plans with fewer than 25 participants is effective for plan years beginning after December 31, 2006. The Short Form 5500 will not be available for use, however, until the move to the fully electronic filing system for plan years beginning after December 31, 2008. For the interim two years, as discussed in more detail in the Forms Revision Notice, the Agencies are offering to plans with fewer than 25 participants that would meet the eligibility requirements for the Short Form 5500 a simplified reporting option within the context of the existing annual report forms.

[3] Under the voluntary electronic filing option, Form 5500–EZ filers filing an amended return for a plan year will have to file the amended return electronically using the Form 5500–SF if they initially filed electronically for the plan year and will have to file with the IRS using the paper Form 5500–EZ if they filed for the plan year with the IRS on a paper Form 5500–EZ.

[4] Schedule P (Annual Return of Fiduciary of Employee Benefit Trust) was removed from Form 5500 filings beginning with the 2006 plan year (2005 plan year for Form 5500–EZ) in anticipation of the move to electronic filing. See, Announcement 2007–63, 2007–30 I.R.B 65. In addition, Schedule T (Qualified Pension Plan Coverage Information) was removed from Form 5500 filings beginning with the 2005 plan year. The IRS notes that this change was not intended to effect the applicable required or optional nondiscrimination testing (including the testing options described in Revenue Procedure 93–42), 1993–2 C.B. 540.

(d) Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) and Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) (Formerly Schedule B)

Actuarial schedules are required for defined benefit pension plans subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA). Schedules SB and MB will be required to be filed as a non-standard attachment for the 2008 plan year to meet the requirements of the PPA and, for the 2009 plan year and later, will be filed in the same manner as the other schedules under the electronic filing system.

The Schedule SB must be filed for single-employer defined benefit pension plans (including multiple-employer defined benefit pension plans).[5] The Schedule SB and accompanying attachments will capture identifying information about the plan and plan sponsor, the type of plan, and prior year plan size. It includes basic information about plan assets, number of participants, funding target information, and a statement by an enrolled actuary. It consists of basic actuarial worksheets designed to allow the Agencies to evaluate the plan's compliance with the funding requirements as amended by sections 101, 102, 111, and 112 of the PPA, and to ensure that the reporting requirements under ERISA, as amended by section 503 of the PPA, are included on the schedule. The material is divided into sections consisting of ''Basic information,'' ''Beginning of year carryover and prefunding balances,'' ''Funding percentages,'' ''Contributions and liquidity shortfalls,'' ''Assumptions used to determine funding target and target normal cost,'' ''Miscellaneous items,'' ''Reconciliation of unpaid minimum required contributions for prior years,'' and ''Minimum required contribution for current year.'' Airlines that have frozen pension plans electing the alternate funding schedule and plans for which the effective date of the new PPA funding rules is delayed (PBGC settlement plans, certain defense contractors, certain rural electrical cooperatives, etc.) will not be required to fill out all of these sections. Instead, additional information related to the applicable funding rules for such plans will be provided as an attachment.

Schedule MB must be filed for all multiemployer defined benefit plans and money purchase plans (including target benefit plans) that are currently amortizing waivers. Schedule MB is similar to the existing Schedule B. New items that have been added include: (1) Accrued liability determined using the unit credit cost method; (2) information about whether the plan is in endangered, seriously endangered, or critical status, and, if so, whether the plan is complying with the applicable requirements for its funding improvement or rehabilitation plan; and (3) information required by PPA section 503.

(e) Schedule C (Service Provider Information)

Schedule C generally must be attached to the Form 5500 Annual Return/Report filed by large plan filers to report persons who rendered services to the plan or in connection with transactions with the plan received, directly or indirectly, $5,000 or more in compensation during the plan year, and to report terminations of plan accountants or enrolled actuaries. Consistent with recommendations of the ERISA Advisory Council Working Groups and the Government Accountability Office (GAO), EBSA has concluded that more information should be disclosed on the Form 5500 Annual Return/Report regarding plan fees and expenses. *See* ERISA Advisory Council Report of the Working Group on Plan Fees and Reporting on Form 5500 (November 10, 2004) (available on the Internet at: *http://www.dol.gov/ebsa/publications*); Private Pensions: Government Actions Could Improve the Timeliness and Content of Form 5500 Pension Information, GAO–05–491 (available on the Internet at: *http://www.gao.gov*).

Schedule C reporting continues to be limited to large plan filers and the $5,000 reporting threshold has been retained. As in the proposal, the Schedule C consists of three parts. Part I of the Schedule C requires, subject to an alternative reporting option described below, the identification of each person who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. To provide more informative disclosures about the types of fees being paid to or received by plan service providers, the final Schedule C requires direct compensation paid by the plan to be reported on a separate line item from indirect compensation received from sources other than the plan or plan sponsor. In addition, in light of the fact that particular service providers may receive indirect compensation of various types from various sources, the final forms revisions expand the codes currently required on the Schedule C to better identify the types of services provided and to also require codes for types of fees received by the service provider.

As noted above, the final form revisions includes an alternative reporting option for service providers whose only compensation in relation to the plan is limited to ''eligible indirect compensation'' (certain specified types of common investment related fees) provided that written disclosure(s) are furnished to the plan administrator, including in electronic form, that disclose the existence of the indirect compensation; the services provided for the indirect compensation or the purpose for payment of the indirect compensation; the amount (or estimate) of the compensation or a description of the formula used to calculate or determine the compensation; and the identity of the party or parties paying and receiving the compensation. Where a particular service provider received only ''eligible indirect compensation'' for which the required disclosures were provided, instead of providing information on the service provider, the Schedule C may report instead identifying information on the person or persons who provided the plan with the required written disclosures.

With respect to service providers required to be listed on the Schedule C who received such eligible types of indirect compensation for which the written disclosures were not provided or any other indirect compensation, the Schedule C requires more detailed information on the indirect compensation, including, in the case of certain key service providers, information regarding the payor if the service provider received during the plan year indirect compensation from a single source of $1,000 or more.

Although filers generally have the option of reporting a formula used to calculate indirect compensation received instead of an actual dollar amount or estimate, where a formula is used to describe indirect compensation received by one of the key service providers, the amount of indirect compensation is presumed to meet the reporting thresholds for purposes of the Schedule C reporting requirements.

[5] Unlike multiemployer plans within the meaning of ERISA sections 3(37) and 4001(a)(3) to which more than one employer is required to contribute, which must be maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and which must satisfy other requirements prescribed in regulations issued by the Department at 29 CFR 2510.3–37, multiple-employer plans are plans that cover the employees of two or more employers but are treated as single-employer plans for various purposes under ERISA.

As noted above, the final Schedule C includes a new Part II for plan administrators to identify each service provider that failed or refused to provide the information necessary to complete Part I of the Schedule C.

The third part of the Schedule C (Part III) is the current Part II of the Schedule C used for reporting termination information on plan accountants and enrolled actuaries.

(f) Schedule R (Retirement Plan Information)

As noted above, in light of the removal of the Schedule E (ESOP Annual Information), selected questions from the Schedule E are being incorporated into the Schedule R in order to continue to collect certain information regarding ESOPs as part of the Form 5500 Annual Return/Report.

As in the proposal, Schedule R has been modified to include additional questions required by section 503 of PPA and to collect information the PBGC needs to enable it to properly monitor the plans it insures. The new Part V collects PPA-required information on multiemployer defined benefit plans and additional information related to major contributing employers. Asset allocation questions for large defined benefit plans (1,000 or more participants) are included in Part VI. Such plans must provide a breakdown of plan assets by type of investment (stock, investment-grade debt, high-yield debt, real estate, and other). Information on the average duration of combined investment-grade and high-yield debt is also required. For this purpose, duration may be determined using any generally accepted methodology. Although the ESOP-related questions will not be on the Schedule R until the shift to the wholly electronic filing system effective for the 2009 plan year, the PPA-related questions and the asset allocation questions for the PBGC will be required as a non-standard attachment to the Schedule R for the 2008 plan year.

(g) Technical and Conforming Changes for Forms and Instructions

Various other technical and conforming changes are being adopted as part of the final changes to the 5500 Forms. Several of the more significant changes include: (1) Revision of the instructions for the Form 5500 Annual Return/Report and development of instructions for the Short Form 5500 to reflect the new structure of the returns/reports and electronic filing requirements; (2) addition of questions regarding compliance with the Department's blackout notice regulation in 29 CFR 2510.101–3; (3) addition of a compliance question on whether the plan failed to pay benefits when due under the plan; (4) expansion of the use of codes to report plan feature information on pension and welfare benefit plans; (5) elimination of the optional entry of the form preparer's name and employer identification number (EIN); (6) requiring small plans to report administrative expenses separately from other expenses on the Schedule I; (7) addition of a question on whether any minimum funding amount reported for a pension plan will be met by the funding deadline; and (8) adoption of a standard format for use in connection with an independent qualified public accountant (IQPA) rendering an opinion on the supplemental schedule information on Line 4a of Schedule H and I relating to delinquent participant contributions.

(h) PPA-Required Simplified Reporting for Plans With Fewer Than 25 Participants

As noted in the Forms Revision Notice, section 1103(b) of the PPA requires a simplified report for plans with fewer than 25 participants to be available for 2007 plan year filings, i.e., filings for plan years beginning after December 31, 2006. To satisfy this requirement, the Agencies proposed giving plans covering fewer than 25 participants that would meet the conditions for being eligible to file the Short Form 5500—treating those conditions as if they applied for 2007 plan year filings—the option of filing an abbreviated version of the current Form 5500 Annual Return/Report for ''small plan'' filers. The abbreviated version, to a large extent, is an attempt to replicate, within the context of the existing Form 5500 Annual Return/Report structure, the information that would be required to be reported on the Short Form 5500 by allowing certain schedules to be excluded from the filing and requiring only certain line items to be completed on any required schedules. Although the Department received a comment suggesting that the Agencies satisfy the PPA requirement by instituting the Form 5500–SF for 2007 plan year filings, the Department concluded that approach would not be feasible or appropriate given the costs that would have been required to modify the current EFAST system so that it could process the Form 5500–SF. Rather, with the additional deferral in the implementation of the electronic filing requirement, the proposed simplified reporting option using the existing 5500 Forms for eligible plans with fewer than 25 participants will be available for both the 2007 and 2008 plan year filings.

Thus, for the 2007 and 2008 plan years, plans with fewer than 25 participants that meet the eligibility requirements for the Short Form 5500, treating those conditions as if they applied for 2007 and 2008 plan year filings, will be permitted to satisfy the annual reporting requirement by filing on the appropriate year form and schedules: (1) The Form 5500; (2) a Schedule A for any insurance contracts for which a Schedule A is required under current rules, completing only lines A, B, C, D and the insurance fee and commission information in Part I; (3) Schedule B for the 2007 plan year, and, for the 2008 plan year, Schedule MB for multiemployer defined pension benefit plans and certain money purchase plans, and Schedule SB for single employer defined benefit pension plans; (4) Schedule I; (5) Schedule R, completing only lines A, B, C, D, and Part II; and (6) Schedule SSA. Additional detailed guidance regarding this simplified reporting option is included in the instructions to the 2007 Form 5500 and the instructions to the 2008 Form 5500.

The Department understands that some eligible small plan filers may want to wait until the implementation of the Short Form 5500 for the 2009 plan year in order to avoid having to make changes to their annual reporting systems and procedures for 2007 and 2008 plan year filings and then adjust them again to start filing the Short Form for the 2009 plan year. The above simplified reporting alternative, accordingly, is available for plans that voluntarily take advantage of its availability. Plans with fewer than 25 participants can instead continue to file in accordance with the normal small plan rules for the 2007 and 2008 plan year.

(i) PPA-Required Actuarial Schedules and Multiemployer Plan Reporting

The remaining PPA-required changes in the 5500 Forms are the new actuarial information schedules (Schedules SB and MB), most of the questions on Part V of the Schedule R—Additional Information for Multiemployer Defined Benefit Pension Plans, line 18 of the Schedule R (certain liabilities to participants and beneficiaries under two or more pension plans), and line 7 of the Form 5500 (number of employers obligated to contribute to multiemployer defined benefit plans).[6] To comply with

[6] For 2008, only multiemployer defined benefit pension plans will be required to answer the new

Continued

the PPA, these reporting changes for defined benefit and multiemployer pension plans are being implemented on a transitional basis under the current EFAST system for 2008 plan year annual reports. Plans required to file an actuarial schedule will check the Schedule B box on the 5500 Forms to indicate that they are filing Schedule SB or MB (for plan years beginning with the 2008 plan year) as an attachment to their filing. Similarly, as to the new Part V and line 18 on the Schedule R, and the Form 5500 question for multiemployer plans on the total number of contributing employers, as well as the new financial questions needed by the PBGC, filers will be directed in the instructions to include answers to those questions as an attachment to the Schedule R.[7]

2. Section 2520.104a–2 Electronic Filing of Annual Reports

The proposed revisions to the Form 5500 Annual Return/Report, which include both those set forth in the Agencies' July 2006 Proposal and those in the Supplemental Notice to address changes required by the PPA, were part of the Agencies' move to a fully electronic filing and processing system to replace the existing largely paper-based EFAST system. As part of that initiative, the Department published the Electronic Filing Rule, establishing an electronic filing requirement for the Form 5500 Annual Return/Report and the Form 5500–SF for plan years beginning on or after January 1, 2008. 71 FR 41359. In adopting the final Electronic Filing Rule, the Department responded to public comments seeking a postponement in the move to a wholly electronic filing system by agreeing to a deferral of the electronic filing mandate for one year from the 2007 plan year to the 2008 plan year. The Department agreed to the deferral in order to ensure an orderly and cost-effective migration to an electronic filing system by both the Department and annual report filers. Under that deferral, the vast majority of filers would have had until at least July 2009 to make any necessary adjustments to accommodate the electronic filing of their annual report because annual reports generally are not required to be filed until the end of the 7th month following the end of the plan year. Deferring the implementation date also provided service providers, software developers, and the Department additional time to work through electronic processing issues.

A significant percentage of the commenters on the form revision proposals, including several large industry groups representing plan sponsors and service providers, asked for a further postponement in the effective date of the forms changes, and as a consequence, the electronic filing requirement. The commenters emphasized that the PPA, including its new reporting and disclosure obligations, would require many plans and service providers to update existing information management and recordkeeping systems. They also pointed out the certain of the changes in the July 2006 proposal, especially the enhanced fee disclosure requirements in Schedule C and the increased reporting by Code section 403(b) plans (described below), would also require changes in the way plans collect and keep plan information. They argued that it would be particularly burdensome to require plans to transition to the new Form 5500 annual reporting obligations, including the move to the wholly electronic filing system, at the same time as they were working to comply with new PPA requirements. Also, complications with the procurement process and delays in completing the 2007 fiscal year appropriations impacted the timing of the EFAST2 contract award.

The Department continues to believe it is important for plans, service providers, and the Agencies to have an orderly and cost-effective migration to the EFAST2 electronic filing system. The Department, in conjunction with the other Agencies, has decided to defer for an additional one year the implementation of annual reporting forms changes not mandated by the PPA. In determining to publish this deferral in final form, the Department considered section 553 of the Administrative Procedure Act (APA), which requires that an agency provide for notice and comments prior to promulgating substantive rules does not apply when an agency, for good cause, unless it determines that such procedures are impractical, unnecessary or contrary to the public interest. 5 U.S.C. 553(b)(A) and (B). The Department has determined that in order to effectuate an orderly migration to the EFAST2 system, a deferral of the final rule for one additional year is warranted without further notice and comment.

First, the deferral is necessitated by delays in the contracting process beyond the Department's control, including the timing of the fiscal year 2007 budget appropriations, which prevented a contract award in time to build the new system to process 2008 plan year filings as contemplated in the original rulemaking. The Agencies now have, however, received the budgetary authorization necessary to complete the procurement process, have received bids, and are actively pursuing the process. As noted in the Department's *FY 2008 Detailed Budget Documentation*, available on the Internet at *http://www.dol.gov*, the Department is on track for implementing EFAST2 system on January 1, 2010, to process filings for the 2009 plan year.

Second, when implemented, the elimination of paper filings in favor of electronic filing will result not only in significant improvements in the timeliness and accuracy of information available to workers, regulators and the public about employee benefit plans and result in operational improvements and cost savings, a direct goal of the President's E-government initiative, but it will also be used to fulfill information collection and disclosure requirements of the PPA, many of which apply for the 2008 plan year. Thus, additional delays would negatively impact orderly and cost-effective integration of the new PPA requirements and the new EFAST2 system, in light of the PPA's deadlines.

Third, publishing the deferral of the effective date on an interim basis with an opportunity for comment not only could potentially interfere with the contracting and budget process, but also could also harm plans by leading them to delay preparing for the move to the new system, when it is not practical to implement the new system either earlier or later.

Accordingly, under the final regulation, the electronic filing requirement and all of the forms changes, except for those mandated by the PPA discussed in this Notice and the Forms Revision Notice, will become effective for all annual report filings made under Part 1 of Title I of ERISA for plan years (reporting years for non-plan filings) beginning on or after January 1, 2009. To effectuate the deferral of the electronic filing requirement, this final rule includes an amendment to the Electronic Filing Rule published in the **Federal Register** on July 21, 2006. Specifically, this final rule amends the Department's regulation at 29 CFR 2520.104a–2 to

question 7 on the 2009 Form 5500 (as a nonstandard attachment), as mandated by the PPA, but in 2009 and following years, all multiemployer plans will be required to answer the question as part of the electronic filing of the Form 5500, as proposed in the July 2006 Proposal.

[7] Because the 2007 forms will not include the new PPA required questions, a caution was added to the 2007 Form 5500 instructions to alert short plan year filers required to complete the Schedule SB, Schedule MB or the new Schedule R questions that they will have to wait until the 2008 Forms and instructions are publicly available for use for filing.

provide that the electronic filing requirement is applicable for plan years beginning on or after January 1, 2009.

Under this final rule, the vast majority of filers will now have until at least July 2010 to complete any necessary adjustments to accommodate the non-PPA required changes to the form and those required for electronic filing of their annual report because annual reports generally are not required to be filed until the end of the 7th month following the end of the plan year.

3. Section 2520.104–44

Section 2520.104–44 and the current Form 5500 Annual Return/Report instructions provide for limited reporting for pension plans that exclusively use a tax deferred annuity arrangement under Code section 403(b)(1), custodial accounts for regulated investment company stock under Code section 403(b)(7), or a combination of both. The exemption in section 2520.104–4(b)(3) is being eliminated, with the result that Code section 403(b) pension plans subject to Title I will now be treated the same under the regulations as any other Title I pension plan for purposes of the annual reporting requirements under Title I of ERISA.

4. Section 2520.104–46

In accordance with the Department's authority under section 104(a)(2)(A) and 104(a)(3) of ERISA, the Department has adopted, at 29 CFR 2520.104–41, simplified annual reporting requirements for pension and welfare benefit plans with fewer than 100 participants. In addition, the Department, at 29 CFR 2520.104–46, has prescribed for such small plans a waiver from the requirements of ERISA section 103(a)(3)(A) to engage an IQPA and to include the opinion of the IQPA as part of the plan's annual report. The waiver of the IQPA requirements for pension plans was conditioned, among other requirements, on enhanced disclosure in the Summary Annual Report (SAR) provided to participants and beneficiaries. In that regard, the Department prepared a model notice that plans could use to satisfy the enhanced SAR disclosure conditions. That model notice has been available at the EBSA's Web site at *http://www.dol.gov/ebsa*. In order to provide plan administrators with additional access to the model notice and to facilitate compliance with the audit waiver eligibility conditions, the Department has added the model notice as an appendix to section 2520.104–46.[8]

5. Section 2520.104b–10

Section 104(b)(3) of ERISA provides in part that, each year, administrators must furnish to participants and beneficiaries receiving benefits under a plan SAR materials that fairly summarize the plan's annual report. Section 2520.104b-10 sets forth the requirements for the SAR used to satisfy that requirement and prescribes formats for such reports. The regulatory amendments described in this Notice do not include any change to the SAR content requirements. In order to facilitate compliance with the SAR requirement for Short Form 5500 filers, however, the Department is updating its cross-reference guide to correspond the line items of the SAR to the relevant line items on the Form 5500 and Short Form 5500. The cross-reference guide, as before, would continue to be an appendix to section 2520.104b-10.

C. Findings on the Revised 5500 Forms as a Limited Exemption and Alternative Method of Compliance

Section 104(a)(2)(A) of the Act authorizes the Secretary of Labor (Secretary) to prescribe by regulation simplified reporting for pension plans that cover fewer than 100 participants. Section 104(a)(3) authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I of ERISA or to provide simplified reporting and disclosure if the Secretary finds that such requirements are inappropriate as applied to such plans. Section 110 permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements if the Secretary finds that: (1) The use of the alternative method is consistent with the purposes of Title I of ERISA, provides adequate disclosure to plan participants and beneficiaries, and provides adequate reporting to the Secretary; (2) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate. For purposes of Title I of ERISA, the filing of a completed Form 5500 Annual Return/Report, including the filing by eligible plans of the Short Form 5500, in accordance with the instructions and related regulations, generally would constitute compliance with the simplified report, limited exemption and/or alternative method of compliance in 29 CFR 2520.103–1. The findings required under ERISA sections 104(a)(3) and 110 relating to the use of the revised 5500 Forms as alternative methods of compliance, simplified report, and/or limited exemption from the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA are set forth below. In revising the 5500 Forms and making the amendments in this rulemaking, the Department has attempted to balance the needs of participants and beneficiaries and the Department to obtain information necessary to protect ERISA rights and interests with the needs of administrators to minimize costs attendant with the reporting of information to the federal government. The Department makes the following findings under sections 104(a)(3) and 110 of the Act with regard to the use of the revised 5500 Forms as a simplified report, alternative method of compliance, and/or limited exemption pursuant to 29 CFR 2520.103–1(b).

The use of the revised 5500 Forms is consistent with the purposes of Title I of ERISA and provides adequate disclosure to participants and beneficiaries and adequate reporting to the Secretary. While the information that would be required to be reported on or in connection with the revised 5500 Forms deviates, as before, in some respects, from that delineated in section 103 of the Act, the information needed for adequate disclosure and reporting under Title I is required to be included on or as part of the 5500 Forms.

The use of the 5500 Forms will relieve plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens by providing a standardized format that facilitates reporting, eliminates duplicative reporting requirements, and simplifies the content of the annual report in general. The 5500 Forms are intended to reduce further the administrative burdens and costs attributable to compliance with the annual reporting requirements.

[8] The PPA requires defined benefit plans to provide an Annual Funding Notice for plan years beginning after January 1, 2008. Under the PPA, plans that provide an Annual Funding Notice will no longer have to provide an SAR. The Department has a separate regulatory initiative regarding the PPA-required Annual Funding Notice. The Department anticipates that rulemaking will provide that the enhanced disclosure required to be eligible for the waiver of the requirement for an audit by an independent qualified public accountant be included in the Annual Funding Notice for small pension plans providing that notice instead of an SAR.

Taking into account the above, the Department has determined that application of the statutory annual reporting and disclosure requirements without the availability of the revised 5500 Forms and the new Schedules SB and MB, would be adverse to the interests of participants in the aggregate. The revised 5500 Forms provide for the reporting and disclosure of basic financial and other plan information described in section 103 of ERISA in a uniform, efficient, and understandable manner, thereby facilitating the disclosure of such information to plan participants and beneficiaries.

Finally, the Department has determined under section 104(a)(3) of ERISA that a strict application of the statutory reporting requirements, without taking into account the revisions to the 5500 Forms would be inappropriate in the context of welfare plans for the same reasons discussed above (i.e., the streamlined forms reduce filing burdens without impairing enforcement, research, and policy needs, while at the same time providing adequate disclosure to participants and beneficiaries).

D. Regulatory Impact Analysis

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule's (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this regulatory action is likely to have an annual effect on the economy of approximately $100 million. Therefore, this action is being treated as ''economically significant'' and subject to OMB review under section 3(f)(1) of Executive Order 12866. The Department accordingly has undertaken to assess the costs and benefits of this regulatory action in satisfaction of the applicable requirements of the Executive Order and provides herein a summary discussion of its assessment.

The amendments contained in this final rule conform the annual reporting and disclosure regulations promulgated under Title I of ERISA to final revisions to the 5500 Forms and instructions being issued simultaneously with this final rule. Inasmuch as the amendments contained in this final rule implement the forms revisions contained in the Forms Revision Notice being published simultaneously with this final rule, the Department's assessment pursuant to the Executive Order combines the regulatory amendments and the form revisions, treating these changes as a coordinated regulatory action. The Department's assessment, described below, takes into account the public comments received in response to the July 2006 Proposal and the Supplemental Notice, which are discussed in detail in the preamble of the Forms Revision Notice. That discussion, to which reference is made throughout this assessment, is hereby incorporated into this assessment by reference.

In accordance with OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), Table 1 below depicts an accounting statement showing the Department's assessment of the net annual cost reduction associated with the provisions of the final rule and forms revisions. Over the next ten years, the Department anticipates an average annual reduction in costs of $94 million when using a 3% discount rate as suggested by OMB Circular A–4.[9] As described more fully below, the Department believes that the impact of these changes will affect individual employee benefit plans disparately, depending on their individual circumstances. While most employee benefit plans are likely to experience a decrease in costs, some plans may see an increase in costs due to these rules. Further information about the relative increase or decrease in costs likely for particular plan types is described below.

TABLE 1.—ACCOUNTING STATEMENT: ESTIMATED COST REDUCTION FROM THE CURRENT REPORTING REQUIREMENTS TO THE 2009 REPORTING REQUIREMENTS

[In millions]

Category	Estimates			Units		
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (percent)	Period covered
Benefits:						
Annualized Monetized	94.3	0.0	0.0	2009	7	2007 and later.
($millions/year)	97.1	0.0	0.0	2009	3	2007 and later.
Annualized Quantified	0.0	0.0	0.0	.....	7	
Qualitative	0.0	0.0	0.0	.....	3	
Costs:						
Annualized Monetized	14.8	0.0	0.0	2009	7	2007 and later.
($millions/year)	15.4	0.0	0.0	2009	3	2007 and later.
Annualized Quantified	0.0	0.0	0.0	.....	7	
Qualitative	0.0	0.0	0.0	.....	3	

[9] A 7% units discount rate increases the estimate of the average annual reduction to $97 million. Both annualized estimates are based on aggregate cost savings of $25.6 million in 2007, $30.2 million in 2008, and $97.4 million, starting in 2009 (all in 2009 Dollars).

Need for Regulatory Action

As described in the preambles to the July 2006 Proposal and the Supplemental Notice, the Department is promulgating these amendments of the annual reporting regulations, the revision of the Form 5500 Annual Return/Report and its instructions, and the creation of the Short Form 5500 and its instructions, with the goal of reducing the overall burden of the statutory reporting requirements and the forms without sacrificing the quality of the information collected. This action also furthers three specific Departmental initiatives, described earlier in this preamble: (1) Creating a fully electronic filing system for processing the annual reports filed by employee benefit plans; (2) responding to reports from the GAO and the ERISA Advisory Council suggesting the need for substantive changes in the information gathered through the 5500 Forms, specifically with respect to fees and expenses of employee benefit plans; and (3) effectuating new reporting and disclosure requirements contained in the PPA.

The principal reforms contained in this final action include the adoption of the Short Form 5500, the revision of reporting requirements for Code section 403(b) plans, the creation of separate Schedules SB and MB to replace the Schedule B to report actuarial information, the elimination of IRS-only schedules, and the expansion of fee reporting in Schedule C. Because of the importance of these annual return/reports as a source of information for participants and beneficiaries, as an enforcement and research tool for the Department, and as a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies, the final regulatory action increases the amount and improves the quality of information that plans must disclose. Because of the voluntary nature of the employee benefit system, however, the Department, in shaping this regulatory action, has carefully balanced the need for increased and improved disclosure and plan administrators' and sponsors' interest in minimizing reporting costs.

Specifically, the burden associated with completion of the Form 5500 Annual Return/Report can be divided into two steps: reading the instructions and completing the individual line items. The current structure of the Form 5500 Annual Return/Report, even without the introduction of the Short Form 5500, in contrast to what filers would need to do to comply with the statute in the absence of the Form 5500 Annual Return/Report, allows filers to answer only relevant line items and quickly find the instructions relevant to the line items that they are required to complete. In the absence of the Form 5500, filers would be required to read and evaluate the statutory requirements and make judgments, without carefully targeted instructions, as to how to comply with the statutory reporting requirements. The Short Form 5500 requires not only less line item information than the Form 5500 itself, but eliminates the need to read instructions that are not associated with small plan filers. In addition, the elimination of IRS-only schedules also streamlines reporting under the new system.

The filing burden under these regulations thus is not only less than under the existing Form 5500 Annual Return/Report without revisions, but is less than that under the statute. Moreover, while requiring less information than does the statute, the information required, especially the new enhanced fee disclosure information, is carefully targeted to provide the Agencies, participants and beneficiaries, and others using the Form 5500 Annual Return/Report for research purposes, more informative data.

Retaining the existing efficient format of the annual return/report, with most of the information broken out into separate schedules, along with the introduction of the Short Form 5500 for small plans invested in assets with a readily determinable market value should reduce, relative to reporting in the absence of the Form 5500 Annual Return/Report, as revised, the time required to read the instructions because filers will now be more able to skip over the instructions for schedules that do not apply to them. It is, however, expected that filers for whom major changes apply (i.e. Short Form eligible filers, Schedule SB, MB, and C filers, and Code section 403(b) plan administrators) will require additional time in the initial year of filing to thoroughly read the instructions and to familiarize themselves with the revised Form 5500 Annual Return/Report. It is assumed, however, that most filers will not require this additional time in subsequent years. Entry of the information required by the Form 5500 Annual Return/Report, including the Short Form 5500, is made from financial and other records maintained by plans. Sound accounting and general business practices would generally dictate that all or most of these records be maintained even in the absence of a reporting requirement.

As a result, these final changes are anticipated to result in an aggregate reduction of reporting costs for filers as compared with the reporting costs before promulgation of these changes. As explained below, the Department's assessment results in a conclusion that the benefits to be derived from this regulatory action justify the costs that the action imposes on the public.

Regulatory Alternatives

Executive Order 12866 directs federal agencies promulgating regulations to evaluate regulatory alternatives. The Department and the other Agencies have done so in the process of developing this final action.[10] The preambles to the July 2006 Proposal and the Supplemental Notice describe the regulatory alternatives that were considered in making those proposals, including the possibilities of different eligibility criteria for the Short Form 5500; different approaches for satisfying the PPA requirements for additional actuarial and asset information reporting; and different types of reporting requirements for Code section 403(b) plans. In moving from the proposals to final action, the Department also considered alternatives set forth in public comments, weighing their costs and benefits against the initial proposed actions. The final decisions regarding the regulatory amendments and forms revisions are set forth and explained elsewhere in this document and in the Forms Revision Notice issued simultaneously with this document and are assessed further below. The following summarizes major alternatives considered but not adopted in finalizing these proposals.

Eligibility for Short Form 5500 for certain plans with fewer than 25 participants. In considering public comments in response to both the July 2006 Proposal and the Supplemental Notice, several alternatives to the proposal regarding eligibility to file the Short Form 5500 were considered but not adopted. Specifically, alternatives considered included: (1) relaxing the proposed eligibility requirement, applicable to all small plans (with fewer than 100 participants), that 100 percent of the plan's assets be invested in

[10] As explained elsewhere in this preamble and in the preamble to the Forms Revision Notice, the IRS and the PBGC act jointly with the Department in promulgating the 5500 Forms. The assessment under E.O. 12866 described in this preamble, therefore, makes reference to the three Agencies' decisions in finalizing the forms changes, as well as the Department's decisions in finalizing the amendments to the reporting regulations under Title I of ERISA.

secured, easy to value assets and (2) permitting all plans with fewer than 25 participants to file the Short Form 5500, regardless of whether the plan's investments were so invested.

As described more fully in the preamble to the Forms Revision Notice, the benefits to be gained through the ability to exercise oversight of small plans that invest in other types of assets justifies not diminishing the current burden for plans with fewer than 25 participants by having them continue to file the same information currently required on those assets. Permitting plans with employer securities or other assets that are difficult to value to file the limited information in the Short Form 5500 would be inconsistent with important policy objectives, which are underscored by the PPA's emphasis on increasing plan transparency, more accurately measuring plan assets, increasing participant control over the disposition of employer securities in defined contribution plans, and expanding the annual reporting requirements for multiemployer plans. Valuation of difficult-to-value assets, such as employer securities, may provide an opportunity for abuse or mismanagement that is not lessened by a plan's smaller size. The additional oversight possible through increased reporting responsibilities justifies the additional burden on such plans.

In any event, as described in the Forms Revision Notice, the Department estimates that 95 percent of single-employer non-403(b) plans will qualify to file the Short Form 5500, about 75 percent of which will be plans with fewer than 25 participants. Expanding Short Form filing eligibility to the remaining plans with fewer than 25 participants would only affect about 25,000 additional plans. Further, restricting Short Form 5500 eligibility based on the nature of a plan's asset investments will not deprive those non-eligible small plans of simplified annual filing methods. Those small plans will still be entitled to use the other simplified reporting available to them under the Form 5500 Annual Return/Report. Taking these other simplified options into account, we estimate that this option would only have saved filing plans approximately $4.8 million per year, starting in 2009.[11] We have concluded that this is a reasonable cost to meet the important policy goal of ensuring proper disclosure for small multiemployer plans and for plans with difficult-to-value assets.

Scope of Code section 403(b) plan reporting. The Department considered, but rejects, alternatives, suggested by commenters, to its proposal regarding expanded reporting requirements for Code section 403(b) plans that would have retained the current limited reporting requirements for such plans or modified the proposal to permit such plans their current exemption from annual audit and accountant's opinion requirements. The Department rejects these alternatives because they would significantly reduce or eliminate the benefit that will flow from expanded reporting by Code section 403(b) plans, which the Department believes will result in significant improvements in the administration of Code section 403(b) plans covered by Title I of ERISA, reducing the rate of violations currently being found in investigations of Code section 403(b) plans and increasing benefit security for such plans' participants and beneficiaries.

Scope of Schedule C reporting obligations. The Department considered and rejects several alternative approaches to the reporting of direct and indirect compensation on the Schedule C prior to developing the final decisions embodied in this action. Specifically, the Department considered and rejects alternatives that would have limited reporting of indirect compensation, including requiring reporting of only indirect compensation received by providers with direct service relationships with the plan; adding a ''de minimis'' exception for reporting cash compensation under a certain dollar amount; and reinstating the ''top 40'' provider limitation. The Department assessed the potential cost savings of these and other alternatives that would have reduced the amount and detail of information on indirect compensation required to be reported against the benefits to be gained through increased transparency regarding compensation paid to plan service providers by third parties. The Department believes that the increased transparency that will flow from the indirect compensation reporting required by this final rule will assist plan fiduciaries in assessing the value and appropriateness of their service provider relationships, making more efficient transactions possible and preventing abuses that might arise through receipt of indirect compensation. The Department's modification of its proposals on Schedule C disclosures, described in detail in the Forms Revision Notice, represents a compromise that balances the need for additional disclosure in this area against the cost to the regulated entities that additional disclosure would likely impose.

Benefits and Costs

The Department believes that the benefits to be derived from this final regulatory action, including the final amendments to the reporting regulations and the final adoption of forms revisions, justify their costs. The Department further believes that these revisions to the existing reporting requirements will both reduce aggregate reporting costs and enhance protection of ERISA rights. The Department conducted a thorough assessment of the costs and benefits of these changes as originally proposed. The major proposed changes from the July 2006 Proposal that are promulgated in this final rule essentially as proposed include: (1) Adoption of the Short Form 5500; (2) removal of the IRS-only schedules; and (3) adoption of fuller reporting requirements for Code section 403(b) plans.

Changes proposed in the Supplemental Notice that are being finalized herein without substantial change include: (1) adoption of separate Schedules MB and SB to replace Schedule B; and (2) adoption of the Short Form 5500 as one method of compliance to effectuate the PPA's directive to establish simplified reporting for plans with fewer than 25 participants.

The discussion below under *Benefits* and *Costs* presents the Department's assessment of this final action as a whole and provides discussion of the major aspects of the final action that contributed to the assessment. The discussion also makes note of some of the modifications to the proposed changes that are incorporated into the final action and describes the extent to which those modifications have affected the Department's assessment of this action's costs and benefits.

Benefits. As previously described in the July 2006 Proposal and in the Supplemental Notice, the regulatory amendments and revised versions of the 5500 Forms announced today will provide a standardized, streamlined alternative means of compliance with applicable statutory reporting requirements and will also provide appropriate simplified annual reports and exemptions under section 104(a)(2) and (3) of ERISA. The revised Form 5500, the Short Form 5500, and their schedules will ease plan administrators' compliance with reporting requirements and greatly enhance the utility and accessibility of information reported to

[11] Due to the staggered implementation of the form changes, the savings in 2007 and 2008 are estimated to be about $250,000 annually.

the government, participants and beneficiaries, and others. Together with the Department's planned program for assisting filers in the preparation and electronic submission of filings, the revised 5500 Forms will give plan administrators clear guidance and a supportive, routine mechanism for satisfying their reporting obligations. The revised 5500 Forms also are designed so that the Department can efficiently capture the information electronically and assemble it into an electronic database so that the information can be processed and analyzed in many beneficial ways. These include monitoring compliance with ERISA's reporting and other requirements; targeting and carrying out prompt and effective enforcement actions; informing participants and beneficiaries of the characteristics, operations, and financial status of their benefit plans; producing statistics on the employee benefit system, monitoring trends therein, and informing the public; and assembling information and conducting research that advances knowledge and fosters the formulation of sound public policies toward employee benefits.

Removal of the IRS-only schedules. As explained in the Forms Revision Notice published simultaneously with this final rule, the elimination of the IRS-only schedules (Schedule E and Schedule SSA) beginning with returns/reports for the 2009 plan year facilitates the change to mandatory electronic filing, which is expected to yield substantial benefits. Title I information that was previously collected in the eliminated schedules will be collected in other parts of the 5500 Forms. The Department understands that the IRS is currently considering whether to continue to collect some of the omitted IRS-only information via other Treasury or IRS vehicles. The impact of the removal of these schedules, therefore, is anticipated to reduce reporting costs, as estimated below, while preserving ERISA protections.

Establishment of a Short Form 5500 for certain small plans. The Short Form 5500 will substantially reduce reporting costs (as estimated below) for eligible filers, while continuing the collection of sufficient information to preserve ERISA protections, and satisfying the enforcement, research, and regulatory needs of the Agencies, as well as the disclosure needs of participants and beneficiaries. The small single-employer plans targeted for eligibility (those that invest solely in secure assets that are held or issued by regulated financial institutions and have a fair market value that is easily determined) are less at risk of harm through abuse or mismanagement and can benefit through the reduced filing costs. The eligibility conditions for filing the Short Form 5500, including the requirements relating to security and valuation of the plan's investments, ensure both adequate disclosure to participants and beneficiaries in plans using the Short Form 5500 and adequate annual reporting to the Agencies. Small plans that are not eligible to file the Short Form 5500 remain eligible to file simplified reports under currently available methods of filing, such as filing Schedule I instead of Schedule H and eligibility for the waiver from filing the report of an independent qualified public accountant by virtue of enhanced bonding.

Elimination of the special reporting rules for Code section 403(b) plans. As noted below, this revision is expected to increase reporting costs for affected plans. The Department believes, however, that these added costs are justified by the need to better protect the participants and beneficiaries of these plans. As discussed in the preamble to the Notice of Adoption of Forms Revisions, increased reporting by Code section 403(b) plans is anticipated to provide substantial benefits through better administration of those plans and increased oversight by the Agencies and the public. Amending the annual reporting requirements to place Code section 403(b) plans on par with other ERISA-covered pension plans will achieve these results. The Department anticipates that most small Code section 403(b) plans will be eligible to use the Short Form 5500, and thus will only have to meet that limited filing obligation. The result of this change is therefore only a modest increase in the annual reporting burden on small Code section 403(b) plan filers.

Schedule C fee and compensation reporting. In developing the final Schedule C fee and compensation reporting requirements, the Department modified certain aspects of the proposal as it concerned additional reporting of indirect compensation and fees paid to plan service providers on Schedule C to reach a balance between the cost to plans and providers of gathering the required information and the need for increased transparency regarding such fees and their potential effect on plans. The final form, as did the proposal, keeps the existing $5,000 threshold for reporting direct and indirect compensation, but now has separate line items for reporting direct and indirect compensation to reduce the possibility of duplicative reporting. In addition, the final forms revision adds to the Schedule C an alternative disclosure option. Where the plan administrator has received required disclosures of eligible indirect compensation, the plan administrator now has the option of reporting the person providing the required disclosures as an alternative to having the amount of the eligible indirect compensation reported on the Schedule C itself. These modifications reduce reporting burden for indirect compensation, especially the potential burdens associated with indirect compensation that is difficult to track on a plan-by-plan basis (e.g., ''float'' and ''soft dollars''). As discussed above, the Department has also clarified that health and welfare plans exempt under 29 CFR 2520.104–44 are not required to file the Schedule C. The Department believes that the final forms revisions for Schedule C, which will improve disclosure of both direct and indirect compensation without overburdening the efficient delivery of necessary services to plans, will provide substantial benefits to plans and their participants and beneficiaries. Plan administrators, the Department, and the public will be better able to monitor the compensation arrangements of plan service providers, better able to understand the impact of fees on plan assets, and better able to evaluate the value of purchased services. In addition, it is expected that plan administrators should be better able to negotiate fair prices for necessary plan services.

Creation of separate actuarial schedules for single-employer defined benefit plans and multiemployer defined benefit and certain money purchase plans (Schedules SB and MB) to reflect PPA changes in funding and annual reporting requirements. Certain changes to Schedule B were proposed in the July 2006 Proposal. After passage of the PPA, these proposals for Schedule B were revised in the Supplemental Notice to effectuate the additional reporting requirements of the PPA, with the Schedule B being divided into two separate schedules, one for multiemployer defined benefit plans and certain money purchase plans (the Schedule MB) and another for single-employer defined benefit plans (the Schedule SB). As noted below, the adoption of this change is expected to decrease reporting costs for single-employer plans and slightly increase reporting costs for multiemployer plans. The Department concludes, however, that the small cost increases for multiemployer plans are justified by the need to better monitor plan funding. This information is needed by

participants, beneficiaries, and the Agencies, particularly the PBGC, to improve their ability to assess the financial condition of the plan.

Additional data elements reported on Schedule R. Consistent with the PPA, the new Schedule R will require increased reporting by multiemployer defined benefit pension plans regarding contributing employers, multiemployer plan mergers, withdrawing employers and their withdrawal liabilities, and participants for whom no employer makes contributions. Large single-employer and multiemployer defined benefit plans with 1,000 or more participants will also have to report on their plans' asset allocations, and the duration of debt portfolios. These latter data elements are requested by the PBGC and are not part of the PPA requirements. As noted below, these revisions will increase reporting costs for affected plans. The PPA requires multiemployer defined benefit plans to report this additional information, which is needed by participants, beneficiaries, and the Agencies, particularly the PBGC, to assess the financial risk posed to the plan by a financial collapse or withdrawal of one or more contributing employers.[12] The need for and benefit of these PPA required disclosures are essential to making accurate assessments of the potential risks to which these plans are exposed.

Electronic filing and Web site display of certain Form 5500 information. The requirement to post information electronically will give participants and beneficiaries an additional method of monitoring the financial status of their pension plans. They will be able to access important information instantaneously and without any additional costs involved, as plans must be capable of electronic public disclosure beginning with the 2009 reporting year.

Costs. Although the costs to plans of satisfying their annual reporting obligations will be lower under these regulations than they would be under regulations previously in force, they will still be substantial. As shown in Table 2 below, the aggregate cost of such reporting under the regulations and forms previously in force is estimated to be $425.34 million annually, shared across the 780,000 filers subject to the filing requirement. The Department estimates that the regulations and forms revisions announced today will impose an annual cost burden on the 780,000 filers of only $327.98 million.[13]

TABLE 2.—SUMMARY OF ANNUAL COSTS: REQUIREMENTS PREVIOUSLY IN EFFECT VS. NEW REQUIREMENTS

	Total costs in dollars (in millions)	Total costs in hours (in millions)
Reporting Requirements Prior to this Action	$425.34	5.32
Change in Costs due to this Action (as of 2009 Plan Year Filings)	−97.36	−1.24
Reporting Requirements in effect for Plan Year 2009 Filings	327.98	4.08

Note: Number of affected plans: 780,000.

Because this final action makes substantial changes to the requirements previously in effect, filers will experience some one-time transition costs. The Department examined similar transition cost issues in connection with the last major revision to the Form 5500 Annual Return/Report, which was for plan years beginning in 1999. See 65 FR 5026 (Feb. 2, 2000). Based on information provided by plan service providers and Form 5500 Annual Return/Report software developers at that time, the Department concluded that such costs are generally loaded into the prices paid by plans for affected services and products, spread both across plans and across the expected life of the service and product changes. The Department's estimates provided here are therefore intended to reflect such spreading and loading of these transition costs. That is, the gradual defrayal of the transition costs is included in the annual cost estimates here.

The Department has analyzed the cost impact of the individual revisions. In doing so, the Department took account of the fact that various types of plans would be affected by more than one revision and that the sequence of multiple revisions would create an interaction in the cumulative burden on those plans. For example, both large and small Code section 403(b) plans are affected by the elimination of the limited reporting rules for section 403(b) plans, but small Code section 403(b) plans are also affected by the introduction of the Short Form 5500. The Department quantified the individual revisions as described below.

Removal of the IRS-only schedules. Elimination of the IRS-only schedules beginning with filings for the 2009 plan year will reduce costs on the whole, even though some of the information previously collected in those schedules will continue to be collected by the Department elsewhere in the forms and schedules. The net effect of these changes will be to reduce the total burden for 198,000 affected filers by 530,000 hours. Applying an hourly labor rate of $86 for service providers and $59 for plan sponsors, the Department estimates that this revision will lower the aggregate annual reporting cost by an estimated $39.34 million.[14]

Establishment of a Short Form 5500 for certain small plans. An estimated 594,000 of the 629,000 total small plan filers will be eligible to use the Short Form 5500. Of these filers, 9,000 plans are estimated to be small Code section 403(b) plans that will also be subject to increased filing requirements. Their annual reporting burden is estimated to increase, as a result, by about $1.44 million. For the remainder of the Short Form 5500 eligible plans (585,000 plans), the annual reporting burden is reduced by $72.33 million. This leads to an estimated aggregate saving due to the Short Form 5500 of $70.90 million (877,000 hours) annually.

Elimination of the special reporting rules for Code section 403(b) plans. While approximately 16,000 Code section 403(b) plans will be subject to increased reporting requirements, about 9,000 small Code section 403(b) plans

[12] The addition of some of the new data elements was included in the July 2006 Proposal based on the apparent deterioration of the financial condition of multiemployer plans and the PBGC's belief in the need to monitor better companies that are major contributors to those plans.

[13] The cost and burden hour estimates for the baseline as well as for the new reporting requirements are much lower than the estimates reported in the July 2006 Proposal and the Supplemental Notice. In the estimates reported in this document, the Department is able to take advantage of updated data, some changes to the model and comments with respect to the burden estimates. More detail about the cost estimates can be found in the section ''Assumptions, Methodology, and Uncertainty.''

[14] The appropriateness of the labor rates used in the calculations, as well as on other assumptions, is discussed in the Technical Appendix.

will be eligible to use the new Short Form 5500 and will also be eligible for waiver of the audit requirement. The impact of the changes on the small Code section 403(b) plans is quantified above. Seven thousand large Code section 403(b) plans will be required to file a Form 5500 Annual Return/Report similar to those filed by Code section 401(k) plans and will be subject to the audit requirement. Annual reporting costs for large Code section 403(b) plans will increase by an estimated $7.7 million (100,000 hours).

Establishment of Schedules SB and MB to replace Schedule B. Schedule B will be replaced by two separate schedules: A Schedule SB for single employer (including multiple-employer) defined benefit plans and a Schedule MB for multiemployer defined benefit plans and certain money purchase plans. Overall costs will be reduced by having two separate schedules, each of which is tailored more precisely to a separate targeted group of filers. The 42,000 filers of Schedule SB will therefore see a total annual burden reduction of almost 52,000 hours. Applying an hourly labor rate of $86 for service providers and $59 for plan sponsors, the Department estimates that this will lower the annual reporting cost by an estimated $4.36 million for Schedule SB filers. The 2,300 Schedule MB filers will see a total burden increase of 600 hours because these filers will be required to complete new items. Applying an hourly labor rate of $86 for service providers and $59 for plan sponsors, the Department estimates that this will increase the annual reporting cost by an estimated $47,000. On the whole, replacing Schedule B with new Schedules SB and MB will decrease the aggregate total annual burden by 51,000 hours, or by an estimated $4.31 million.

Revision of Schedule C (Service Provider Information). Schedule C revisions are intended to clarify the reporting requirements and improve the information plan officials receive regarding amounts being received by plan service providers. The expanded reporting requirements are expected to increase the reporting burden for Schedule C filers by about $2.44 million. This increase is partly offset by a reduction in burden of $475,000, resulting from the Department's clarification that welfare plans that meet the conditions of 29 CFR 2520.104–44 are not required to file Schedule C. Jointly, these changes are anticipated to add annual reporting costs of $1.97 million (25,000 hours) for 48,000 affected plans.

Additional Data Elements on Schedule R. Changes to Schedule R, which include moving three questions on ESOPs from Schedule E to Schedule R, with an offset for deleting one question, are expected to add $828,000 in costs (11,000 hours) for 91,000 affected filers.[15] On average, the reporting burden of affected plans is estimated to increase by less than 7 minutes per plan. While some of the affected plans may experience only minimal burden increases, others (particularly very large multiemployer defined benefit plans) will experience an estimated increase in burden of up to three hours.

Adoption of various technical revisions and other miscellaneous revisions to the Form 5500 Annual Return/Report to improve and clarify existing reporting requirements. Several additional questions regarding insurers that fail to supply information, plan failures to pay benefits due, schedules of delinquent participant contributions, blackout compliance, mutual fund dividends, fees paid to administrative service providers, and the number of contributing employers, as well as additional pension plan characteristic codes, were added to the Form 5500 and Schedules A, H, and I. Together these changes are estimated to add $6.68 million (85,000 hours) to annual reporting costs and affect approximately 187,000 plans.

Electronic Filing and Website Display of Form 5500 Information. These requirements are not anticipated to add any additional costs, as plans are already required to be capable of electronic filing and disclosure beginning with the 2009 reporting year under the electronic filing rule. See 71 FR 41359 (July 21, 2006). The costs and benefits of electronic filing have previously been assessed in connection with promulgation of that rule.

Table 3 contains a summary of the changes in costs, expressed both in dollars and in hours, allocated to the changes outlined above and the number of employee benefit plans affected.

TABLE 3.—SUMMARY OF CHANGES TO THE REPORTING REQUIREMENTS: DOLLARS, HOURS, AND AFFECTED PLANS

Revisions effective for 2009 plan year filings	Change in costs in dollars (in millions)	Change in costs in hours	Number of affected plans
Removal of IRS-Only Schedules	−$39.34	−530,000	198,000
Short Form (small non-Code Sect. 403(b) Plans)	−72.33	−895,000	585,000
Short Form (small Code Section 403(b) Plans)	1.44	18,000	9,000
Large Code section 403(b) Plans	7.70	100,000	7,000
Schedule MB	0.047	600	2,000
Schedule SB	−4.36	−52,000	42,000
Schedule C	1.97	25,000	48,000
Schedule R	0.828	11,000	91,000
Technical and Miscellaneous Revisions	6.68	85,000	187,000
Total	−97.36	−1,237,400	780,000

Note: Some displayed numbers do not sum up to the totals due to rounding.

The final action does not otherwise alter reporting costs. Plans currently exempt from annual reporting requirements (such as certain small unfunded or fully insured welfare plans and certain simplified employee pensions) will remain exempt. Also, except for Code section 403(b) plans, plans eligible for limited reporting

[15] The introduction of the Short Form 5500 eliminated the requirement of filing the Schedule R for almost 300,000 small plans previously filing Schedule R (about 94 % of all small plans filing Schedule R). This reduction in burden was included in the decrease of reporting burden due to the introduction of the Short Form 5500. The moving of questions from Schedule E to Schedule R (ESOP questions) is counted as a reduction of burden in connection with the removal of the IRS-only schedules and as an increase in burden for Schedule R filers.

options (such as certain IRA-based pension plans) will continue to be eligible. The revised Form 5500 Annual Return/Report will retain the structure that is familiar to individual and corporate taxpayers—a simple main form with basic identifying information necessary, along with a checklist of the schedules being filed. The structure is designed to aid filers by allowing them to assemble and file a return customized to their plan.

Form 5500 Annual Return/Report Changes Effective for the 2007 and 2008 Plan Year Filings

The sections above describe reporting changes that will become effective for the 2009 plan year filings. As discussed in the preamble of the Forms Revision Notice, the Agencies are making some changes to the reporting requirements for the 2007 and 2008 plan year filings as mandated by the PPA, along with adding a few new Schedule R items for the 2008 plan year filings.[16] Plans with fewer than 25 participants that would meet the conditions for being eligible to file the Short Form 5500 will have the option in their 2007 and 2008 plan year filing of filing an abbreviated version of the Form 5500 Annual Return/Report for ''small plan'' filers. In addition, defined benefit pension plans and certain money purchase plans will file, for the 2008 plan year, the new actuarial information schedules (Schedules SB and MB, as appropriate) instead of Schedule B. In addition, certain filers will be required to answer most of the new questions on Schedule R (Questions 13 to 19 of the 2009 Schedule R).[17]

The Department has calculated the burden for the 2008 plan year return/reports as described generally above with respect to the 2009 plan year filings, but appropriately modified for the difference in filing requirements. The Department estimates that the reduction in burden resulting from the simplified filing requirements for the 2007 and 2008 plan year filings will be about half the burden reduction that will result from the introduction of the 2009 Short Form 5500, for two reasons. First, for the 2009 plan year filings, eligible filers will fill out only the Short Form 5500 and Schedules SB or MB, as applicable. While the simplified filing requirements for plan years 2007 and 2008 generally will be similar data items as are on the Short Form 5500, the items to be completed are spread over several schedules, requiring filers to review all of the instructions to those schedules.[18] Second, use of the simplified filing alternative for the 2007 and 2008 plan years is optional. The Department has assumed that not all small plan filers will take advantage of this option, given that it will be available only for the 2007 and 2008 plan years.

For the 2007 filing year no other form changes that impacted the burden analysis are being made. The Department estimates a burden reduction due to the simplified filings for plans with less than 25 participants of about $38.00 million (471,000 hours). Assuming an additional 30 minute transition burden for reviewing the simplified filing requirements, the estimate for the burden reduction is reduced to $25.62 million (317,000 hours).

Without taking any transition burdens into account, the Department has estimated that the revisions for the 2008 plan year will reduce the filing burden by about $41.54 million (511,000 hours). Assuming an additional 30 minute transition burden for reviewing the simplified filing requirements, 150 minutes for Schedule SB, 90 minutes for Schedule MB, and 60 minutes for Schedule R, the Department estimates that for the 2008 plan year the reporting burden will fall by $30.23 million from the $425.34 million that is estimated under prior rules and forms, to an aggregate burden of $395.11 million.[19]

Assumptions, Methodology, and Uncertainty

The cost and burden associated with the annual reporting requirement for any given plan will depend upon the specific information that must be provided, given the plan's characteristics, practices, operations, and other factors. For example, a small, single-employer defined contribution pension plan filing the new Short Form 5500 should incur far lower costs than a large, multiemployer defined benefit pension plan that holds multiple insurance contracts, engages in numerous reportable transactions, and pays fees in excess of $5,000 to a number of service providers. The Department separately considered the cost to different types of plans in arriving at its aggregate cost estimates. The Department's basis for these estimates is described below.

Assumptions Underlying this Analysis. The Department's analysis assumes that all benefits and costs will be realized in the first year of the reporting cycle to which the changes apply and within each year thereafter. This assumption is premised on the requirement that each plan annually will complete a filing. The Department has used a ''status quo'' baseline for this analysis, assuming that the world absent the regulations will resemble the present.[20]

Methodology. Mathematica Policy Research, Inc. (MPR), developed the underlying cost data, which has been used by the Agencies in estimating burden related to the Form 5500 Annual Return/Report during recent years. *See* 65 FR 21068, 21077–78 (Apr. 19, 2000); Borden, William S., ''Estimates of the Burden for Filing Form 5500: The Change in Burden from the 1997 to the 1999 Forms,'' Mathematica Policy Research, submitted to U.S. Dept. of Labor May 25, 1999.[21] The cost information was derived from surveys of filers and their service providers, as modified due to comments, which were used to measure the unit cost burden of providing various types of information. Aggregate estimates were produced by interacting these unit cost measures with historical counts of Form 5500 Annual Return/Report filers who provided the respective types of information.[22]

Actuarial Research Corporation (ARC) assembled a new model for estimating burden, based on the Form 5500 Burden Model that MPR most recently used for estimating burdens in October 2004. ARC assembled a simplified model, drawing on implied burdens associated with subsets of filer groups represented in the MPR model. The ARC model is described in broad terms below. Further details about the model are explained in the Technical Appendix which can be accessed at the Department's Web site at *http://www.dol.gov/ebsa.*

To estimate aggregate burdens, types of plans with similar reporting requirements were grouped together in various groups and subgroups. As shown in Table 4, calculations of aggregate cost were prepared for each of

[16] As mandated by the PPA, the simplified filing option for small plans with fewer than 25 participants will become effective for 2007 plan year return/reports. No other changes to the Forms and Schedules are being made for that filing year, except for a few updates to the Schedule B instructions.

[17] Filers will be required to provide the answers to these new questions as an attachment.

[18] As described further in the instructions, those small plans required to file the Schedules SSA or E will still have to file the schedules as part of their Form 5500 Annual Return/Report filings in 2007 and 2008.

[19] Hours are estimated to fall from the 5.32 million estimated under prior rules and forms, to about 4.94 million hours, a reduction of about 374,000 hours.

[20] Further detail can be found in the Technical Appendix.

[21] The Mathematica report can be accessed at the Department's Web site at *http://www.dol.gov/ebsa.*

[22] The Department did not attempt to project the number of filers into the future.

the various subgroups both under requirements in effect prior to this action and under the forms as revised. Table 4 also shows the number of plans within each subgroup affected by the revisions. The Total line in Table 4 shows that the aggregate cost under prior and new regulations, respectively, add up to $425.34 million and $327.98 million. The universe of filers was divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans. Each of these major plan types was further subdivided into multiemployer and single-employer plans. Defined contribution Code section 403(b) plans were treated separately from other defined contribution plans. Since the filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large plans (100 or more participants), the defined benefit plans were further divided between very large (1,000 or more participants) and other large plans (at least 100 participants, but fewer than 1,000 participants). Small plans were divided similarly, except that they were divided into Short Form 5500 eligible and Short Form 5500 ineligible plans, as applicable. For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for up to seven schedules.

TABLE 4.—NUMBER OF AFFECTED FILERS AND COSTS UNDER PRIOR AND NEW REQUIREMENTS

Type of plan	Number affected	Aggregate cost under prior requirements (in millions)	Aggregate cost under new requirements (in millions)
5500 Large Plans (>=100 participants)	152,000	$177.16	$175.99
DB, ME, 100–1,000 participants	600	1.40	1.33
DB, ME, > 1,000 participants	900	1.99	2.13
DB, SE, 100–1,000 participants	7,000	15.38	13.10
DB, SE, > 1,000 participants	3,400	7.08	7.21
DC, ME, non-403(b)	1,700	2.56	2.45
DC, ME, Code section 403(b)	80	0.0035	0.10
DC, SE, non-403(b)	57,000	75.09	65.14
DC, SE, Code section 403(b)	7,200	0.30	8.38
Welfare, ME	4,100	5.64	5.94
Welfare, SE	69,000	67.71	70.21
5500 Small Short Form Eligible	594,000	234.25	139.03
DB, SE	34,000	35.71	24.33
DC, SE, non-403(b)	544,000	195.65	111.64
DC, SE, Code section 403(b)	8,800	0.37	1.81
Welfare, SE	6,000	2.52	1.25
5500 Small Short Form Ineligible	35,000	13.92	12.96
DB, ME	200	0.16	0.18
DB, SE	1,800	1.91	1.76
DC, ME, non-403(b)	3,200	1.09	1.02
DC, ME, Code section 403(b)	100	0.0042	0.0045
DC, SE, non-403(b)	29,000	10.45	9.68
Welfare/ME	400	0.17	0.18
Welfare/SE	300	0.13	0.14
Total	780,000	425.34	327.98

Note: Some displayed numbers do not sum up to the totals due to rounding.
DB—defined benefit plans.
DC—defined contribution plans.
SE—single-employer plans.
ME—multiemployer plans.
Large plans—100 participants or more.
Small plans—fewer than 100 participants.

We also separately estimated the costs for the form and for each schedule. When items on a Form 5500 Annual Return/Report schedule are required by more than one Agency, the estimated burden associated with that schedule is allocated among the Agencies. This allocation is based on whether only a single item on a schedule is required by more than one agency or whether several or all of the items are required by more than one agency. The burden associated with reading the instructions for each item also is tallied and allocated accordingly.

The reporting burden for each type of plan is estimated in light of the circumstances that are known to apply or that are generally expected to apply to such plans, including plan size, funding method, usual investment structures, and the specific items and schedules such plans ordinarily complete. For example, the annual report for a large fully insured welfare plan typically would consist of only a few questions on the Form 5500, Schedule A (Insurance Information), and Schedule G, where applicable. The requirement that this plan provide very limited information on the Form 5500 Annual Return/Report is reflected in the estimates of reporting burden time. By contrast, a large defined benefit pension plan that is intended to be tax-qualified and that uses a trust fund and invests in insurance contracts would be required to submit an annual report completing almost all the line items of the Form 5500, plus Schedule A (Insurance Information), Schedule B (Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), possibly the Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and Schedule R

(Retirement Plan Information), and would be required to submit an IQPA's report and opinion. In this way, the Agencies intend meaningfully to estimate the relative burdens placed on different categories of filers.

Burden estimates were adjusted for the proposed revisions to each schedule, including items added or deleted in each schedule and items moved from one schedule to another. The burden for the new Short Form 5500 was derived summing the burden estimates for the comparable line items contained in the current Form 5500 Annual Return/ Report.

The Department has not attributed a recordkeeping burden to the 5500 Forms in this analysis or in the Paperwork Reduction Act analysis because it believes that plan administrators' practice of keeping financial records necessary to complete the 5500 Forms arises from usual and customary management practices that would be used by any financial entity and does not result from ERISA or Code annual reporting and filing requirements.

The aggregate baseline burden, as calculated by the ARC model, is the sum of the burden per form and schedule as filed prior to this action multiplied by the estimated aggregate number of forms and schedules filed.[23] The model then estimated the burden impact of changes in the number of filings (particularly those associated with the introduction of the Short Form 5500 for most small filers) and of changes made to the form and the various schedules. The model uses data from the Form 5500 Annual Return/Report for plan year 2003, which is the most recent year for which complete data is available.

The model estimated that the proposed revisions will lead to aggregate costs of $327.98 million, which represents a cost reduction of $97.36 million from the baseline. While overall costs will be reduced, some large plans may experience cost increases, while small plans will likely experience cost reductions. The total burden estimates, as well as the burden broken out by type of plan, can be found in Table 4, above.

Uncertainty within Estimates. Because the Department has access to the historical Form 5500 Annual Return/ Report filing information, the Department has good data for the number of filers that file the various schedules and the types of plans those filers represent. However, there is some uncertainty regarding the expected number of filers in the future and the unit cost estimates. The Department believes that it does not have sufficient information that would allow making good projections of the number of pension plans in the future. Also, the Department has no direct measure for the unit costs and uses a proxy adapted from the existing MPR model, which was developed in the late 1990s. In addition, some uncertainty is inherent in any revision to the existing form, and the level of uncertainty increases with the novelty of the revision in question. For example, there is a lesser degree of uncertainty regarding the impact of revisions that delete existing items or move existing items from one schedule to another, while there is greater uncertainty regarding wholly new items of information, such as those involving indirect compensation.

Most of the key assumptions of the model like the wage rates, hour burden estimates, and the number of filers are entering the model in a direct and transparent way. If, for example, the wage rate increases by 10%, the reduction in costs also increases by 10%.[24] Therefore, the Department did not perform additional sensitivity tests. The Department could not quantify uncertainty because formal estimates of errors are not available. However, the Department believes that the actual burden could very well be 10% higher or lower than the estimates, based on the Department's experience in this program and past trends in filings.

Peer Review

In December 2004, OMB issued a Final Information Quality Bulletin for Peer Review, 70 FR 2664 (January 14, 2005) (Peer Review Bulletin), establishing that important scientific information shall be peer reviewed before it is disseminated by the Federal government. The Peer Review Bulletin applies to original data and formal analytic models used by agencies in regulatory impact analyses. The Department determined that the data and methods employed in its regulatory analysis constituted ''influential scientific information'' as defined in the Peer Review Bulletin. Accordingly, a peer review was conducted under Section II of the Bulletin. The peer review report concluded that the methodology and data generally were sound and produced plausible estimates, which supported the Department's conclusion that the proposed form changes should reduce the aggregate burden relative to the previous forms. The analysis here for the final regulations and forms revisions uses the same methodology as did the proposal, and the Department, accordingly, is relying on the Peer Review prepared for the Proposal. The Peer Review Report can be accessed at the Department's Web site at *http://www.dol.gov/ebsa.*

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.) and that are likely to have a significant economic impact on a substantial number of small entities. In accordance with section 603 of the RFA, the EBSA presented an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. After reviewing and considering the public comments submitted in response to the proposal and the changes that are incorporated into the final regulation, the Department has prepared a final regulatory flexibility analysis, which is presented in this document as part of the broader economic analysis. The objectives of these amended regulations and the associated forms revisions are to streamline reporting and reduce aggregate reporting costs, particularly for small plans, while preserving and enhancing protection of ERISA rights. These purposes are detailed above in this preamble and in the Forms Revision Notice published simultaneously with these regulations.

For purposes of analysis under the RFA, EBSA continues to consider a small entity to be an employee benefit plan with fewer than 100 participants. The basis of this definition is found in section 104(a)(2) of ERISA, which permits the Secretary to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. Under ERISA section 104(a)(3), the Secretary may also provide for exemptions or for simplified reporting and disclosure for welfare benefit plans. Pursuant to the authority of ERISA section 104(a), the Department has previously issued at 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46, and 2520.104b–10 certain simplified reporting provisions and limited exemptions from reporting

[23] To the extent that plans may currently file schedules that are not required, such filings were disregarded in calculating the baseline reporting burden and the final burden.

[24] If the hourly labor costs for service providers increases from $86 to $95 and for plan sponsors from $59 to $65 (10% increase), then the reduction in costs increases from about $97 million to $107 million (10% increase).

and disclosure requirements for small plans, including unfunded or insured welfare plans, that cover fewer than 100 participants and satisfy certain other requirements.

Further, while some large employers may have small plans, in general small employers maintain most small plans. Thus, EBSA believes that assessing the impact of these requirements on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 et seq.). Prior to the proposal, EBSA consulted with the SBA Office of Advocacy concerning use of this participant count standard for RFA purposes, see 13 CFR 121.902(b)(4), and EBSA received no comments suggesting use of a different size standard. The following subsections address specific requirements of the RFA.

Need for the rule and its objectives. The Department is amending the regulations relating to the annual reporting and disclosure requirements of section 103 of ERISA and revising the 5500 Forms that are included in the Forms Revision Notice being published simultaneously with these regulations. The Department continually strives to tailor reporting requirements to minimize reporting costs, while ensuring that the information necessary to secure ERISA rights is adequately available. The optimal design for reporting requirements to satisfy these objectives changes over time. Benefit plan designs and practices evolve over time in response to market trends, including trends in labor markets, financial markets, health care and insurance markets, and markets for various services used by plans. Partly as a result, the nature and mix of compliance issues and risks to ERISA rights change over time. Changes to ERISA, the Code, and to associated regulations also change the parameters of ERISA rights and the methods needed to protect those rights; in particular, this amendment and the forms revisions are necessary, in part, to implement provisions of the PPA. In addition, the technologies available to manage and transmit information continually advance. It is incumbent on the Department to revise its reporting requirements from time to time to keep pace with such changes. The Department is adopting these regulations and associated forms revisions to readjust its reporting requirements to take into account certain recent changes in markets, the law (including the PPA), and technology, many of which are referred to above in this preamble and/or in the Forms Revision Notice published simultaneously with these regulations.

Agency assessment of significant issues raised by public comments and changes to rule in response to such comments. Commenters were mostly supportive of the adoption of a Short Form 5500. Some commenters objected to excluding certain small plans from eligibility for filing the Short Form 5500, that is, those small plans holding employer securities and other difficult-to-value assets. As discussed elsewhere in this preamble, excluding this small subset of small plans is justified by the nature of these assets, and it would be inappropriate for the Agencies to compromise important Congressional and regulatory policies, leaving participants covered by these small plans with insufficient protection of their retirement savings. The Agencies have taken other steps to reduce the burden on the excluded small plans as much as possible, however, including continuing to allow these plans to qualify for other simplified reporting options. In addition, because the Short Form 5500 will not be available until the 2009 plan year, the Agencies are planning to issue separate guidance for plans with fewer than 25 participants that would permit filing of an abbreviated version of the Form 5500 for the 2007 and 2008 plan years.

While expanding reporting obligations for Code section 403(b) plans, the Agencies have attempted to minimize the burden on small Code section 403(b) plans by not excluding small Code section 403(b) plans from any simplified reporting option for which such plans are otherwise eligible. In other words, small Code section 403(b) plans will be eligible to avail themselves of simplified reporting options to the same extent as any other similarly situated plan.

As discussed elsewhere in this preamble, the Agencies are rejecting commenters' suggestion to subject small plans to Schedule C disclosure requirements that do not currently apply to small plans. The Agencies conclude that the comment record in support of the suggestion was insufficient to outweigh the added burden that would be placed on small plans.

The Agencies also are making clarifying changes to instructions for the Short Form 5500, in response to comments, to provide a clearer description of the plans exempt from filing, including small welfare plans, but is refraining from adding similar clarifications to the instructions for individual schedules in order to avoid adding unnecessary review burden for filers.

Description and estimate of number of small entities to which rule will apply. This final action does not alter the number of small plans required to comply with the annual reporting requirements, although it implements a new Short Form 5500, which is designed specifically to further streamline the limited reporting requirements presently applicable to small plans. The Department estimates that almost six million small, private-sector employee pension and welfare benefit plans are covered under Title I of ERISA. A large majority of these, however, are fully insured or unfunded welfare benefit plans, which currently are exempt from annual reporting requirements and will continue to be exempt under this final action. Approximately 629,000 small plans, including small pension plans and small funded welfare plans, currently are required to file annual reports and will continue to be so required under this action. Of these, an estimated 594,000 will be eligible to use the new Short Form 5500. Use of the Short Form 5500 is expected to reduce these plans' reporting costs, while preserving or enhancing the protection of their participants' ERISA rights.

Among small plans, perhaps the most affected by this action will be the approximately 9,000 small Code section 403(b) plans. As explained above, such plans are currently subject only to limited annual reporting requirements. This action will increase these plans' reporting costs, although the cost to these plans will be comparable to that currently borne by similar small plans that are not operated under Code section 403(b). As discussed above, the Department believes the added cost to Code section 403(b) plans is justified by the need to strengthen protections under ERISA for those plans' affected participants and beneficiaries. The numbers and types of small plans affected by these regulations and the magnitude and nature of the regulations' effects are further elaborated below.

Description of projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirements and the types of professional skills necessary for preparation of the report or record. The reporting requirements applicable to small plans are detailed above and in the associated Forms

Revision Notice. For a large majority of the 629,000 small plans subject to annual reporting requirements, or an estimated 563,000 plans, submission of the Short Form 5500 alone will fully satisfy their annual reporting requirements. All of these plans are eligible for the waiver of audit requirements, and none are defined benefit pension plans. For such plans, therefore, satisfaction of the applicable annual reporting requirements is not expected to require the services of an IQPA or auditor, but will require the use of a mix of clerical and professional administrative skills. For an additional 30,000 small defined benefit pension plans and about 500 money purchase plans that will be eligible to use the streamlined Short Form 5500, satisfaction of the reporting requirements will require additional services of an actuary and submission of the Schedule SB or Schedule MB, as applicable. The remaining 35,000 small plans will not be eligible to use the Short Form 5500 and will continue to be required to file the Form 5500 Annual Return/Report. Of these, fewer than 2,000 are defined benefit plans that must use an actuary and file Schedule MB or Schedule SB. All will require a mix of clerical and professional administrative skills to satisfy their reporting requirements.

Satisfaction of annual reporting requirements under these regulations is not expected to require any additional recordkeeping that would not otherwise be part of normal business practices.

Table 5 below compares the Department's estimates of small plans' reporting costs under the requirements in effect prior to this action with those under the new requirements for various classes of affected plans. As shown, costs under the new requirements will be lower on aggregate and for most classes of plans. These estimates take account of the quantity and mix of clerical and professional skills required to satisfy the reporting requirements for various classes of plans.

TABLE 5.—SMALL PLAN REPORTING COSTS UNDER PRIOR AND NEW REQUIREMENTS

Class of small plan	Number affected	Aggregate cost under prior requirements (in millions)	Aggregate cost under new requirements (in millions)
Defined Benefit Pension, Short Form eligible	34,000	$35.71	$24.33
Defined Benefit Pension, Short Form ineligible	2,000	2.07	1.93
Code Section 403(b)	9,000	0.38	1.81
Other Defined Contribution, Short Form eligible	544,000	195.65	111.64
Other Defined Contribution Pension, Short Form ineligible	32,000	11.54	10.70
Funded Welfare	7,000	2.83	1.58
Other Welfare	None of approximately 6 million	.....	.....
Total for All Affected Small Plans	629,000	248.17	151.99

Note: Some displayed numbers do not sum up to the totals due to rounding.

The Department notes that the estimated reporting costs amount to about $240 on average for each of the 629,000 small plans subject to annual reporting requirements, or just $27 if averaged across all of the approximately 5.7 million small plans covered by Title I of ERISA. This compares with roughly $1,200 on average for each of the 152,000 affected large filers.

The Department is unaware of any relevant federal rules for small plans that duplicate, overlap, or conflict with these regulations.

Description of steps the agency has taken to minimize impact on small entities. In developing and finalizing these regulations and the associated forms revisions, the Department considered a number of alternative provisions directed at small plans, many of which are discussed elsewhere in this preamble and in the Forms Revision Notice. For example, as discussed in the Forms Revision Notice, the ERISA Advisory Council suggested that the Department consider exempting welfare plans from reporting requirements, or, alternatively, subjecting all welfare plans to new, separately designed reporting requirements. The Department opted instead to retain both the requirement that small funded welfare plans submit annual reports and the exception from annual reporting requirements for other small welfare plans. Annual reporting by the relatively small number of small funded welfare plans is necessary, in the Department's view, to protect ERISA rights in connection with the assets that such plans hold. A requirement that the remaining approximately six million small welfare plans report annually is not justified insofar as these plans have no assets that need protection and insofar as the vast majority of the plans are fully insured and therefore separately protected by state oversight of the insurance contracts they hold and the insurers that issue them. The Department also considered both narrower and broader eligibility criteria for use of the Short Form 5500, settling on criteria that limit eligibility to plans holding relatively safe and protected assets, which nonetheless includes a large majority of small plans. The Department also considered the inclusion of more or fewer of the items of information formerly collected from small plans in the Form 5500 Annual Return/Report, retaining only those items it believes to be necessary and adequate to the protection of small plan participants' ERISA rights.

Paperwork Reduction Act Statement

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)), the July 2006 Proposal solicited comments on the information collections included in the proposed amendments to the Department's regulations relating to annual reporting and disclosure requirements under Part 1 of Subtitle B of Title I of ERISA and in the proposed revision of the Form 5500 Annual Return/Report pursuant to Part 1 of Subtitle B of Title I and Title IV of ERISA and the Internal Revenue Code. The Department also submitted an information collection request (ICR) to OMB in accordance with 44 U.S.C. 3507(d), contemporaneously with publication of the July 2006 Proposal, for OMB's review of the Department's information collections previously approved under OMB Control No. 1210–0110.[25] Public comment on the

[25] On August 29, 2006, OMB issued a notice indicating that it would continue its approval of the information collections approved under Control No. 1210–0110 as currently in effect, but would not approve the Department's request for approval of

information collections contained in the Supplemental Notice was also solicited in connection with the publication of that Notice in December, 2006.

In connection with publication of this final rule, the Department has submitted an information collection request (ICR) to OMB for its review of the changes in burden estimates for the information collections currently approved under OMB Control No. 1210–0110 that are the result of this final regulatory action and the Forms Revision Notice published simultaneously with this rule. In order to avoid unnecessary duplication of public comments, the PRA information published in the associated Forms Revision Notice is incorporated herein by this reference in its entirety. The public is advised that 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 Department intends to publish a notice announcing OMB's decision upon review of the Department's ICR.

A copy of the ICR can be obtained by contacting the Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, Room N–5718, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 693–8410; Fax: (202) 219–4745 or at *http://www.RegInfo.gov.* These are not toll-free numbers.

Congressional Review Act

The final rules being issued here are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and will be transmitted to the Congress and the Comptroller General for review.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, these rules do not include any Federal mandate that may result in expenditures by state, local, or tribal governments in the aggregate of more than $100 million, adjusted for inflation, or increased expenditures by the private sector of more than $100 million, adjusted for inflation.

Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. These rules do not have federalism implications because they would have no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in these rules do not alter the fundamental provisions of the statute with respect to employee benefit plans, and as such would have no implications for the States or the relationship or distribution of power between the national government and the States.

List of Subjects in 29 CFR Part 2520

Accountants, Disclosure requirements, Employee benefit plans, Employee Retirement Income Security Act, Pension plans, Pension and welfare plans, Reporting and recordkeeping requirements, and Welfare benefit plans.

■ In view of the foregoing, the Department amends 29 CFR part 2520 as set forth below:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

■ 1. The authority citation for part 2520 is revised to read as follows:

Authority: 29 U.S.C. 1021–1025, 1027, 1029–31, 1059, 1134, and 1135; and Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003). Sec. 2520.101–2 also issued under 29 U.S.C. 1132, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.102–3, 2520.104b–1, and 2520.104b–3 also issued under 29 U.S.C. 1003, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.104b–1 and 2520.107 also issued under 26 U.S.C. 401 note, 111 Stat. 788.

■ 2. In § 2520.103–1, revise paragraphs (a)(2), (b)(1) and (c) to read as follows:

§ 2520.103–1 Contents of the annual report.

(a) * * *

(2) Under the authority of subsections 104(a)(2), 104(a)(3) and 110 of the Act, and section 1103(b) of the Pension Protection Act of 2006, a simplified report, limited exemption or alternative method of compliance is prescribed for employee welfare and pension benefit plans, as applicable. A plan filing a simplified report or electing the limited exemption or alternative method of compliance shall file an annual report containing the information prescribed in paragraph (b) or paragraph (c) of this section, as applicable, and shall furnish a summary annual report as prescribed in § 2520.104b–10.

(b) * * *

(1) A Form 5500 ''Annual Return/Report of Employee Benefit Plan'' and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information), Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule R (Retirement Plan Information), and other financial schedules described in Sec. 2520.103–10. See the instructions for this form.

* * * * *

(c) *Contents of the annual report for plans with fewer than 100 participants.* (1) Except as provided in paragraph (c)(2) of this section and in paragraph (d) of this section, and in §§ 2520.104–43 and 2520.104a–6, the annual report of an employee benefit plan that covers fewer than 100 participants at the beginning of the plan year shall include a Form 5500 ''Annual Return/Report of Employee Benefit Plan'' and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule SB (Single Employer Defined Benefit Plan Actuarial Information), Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), Schedule D (DFE/Participating Plan Information), Schedule I (Financial Information—Small Plan), and Schedule R (Retirement Plan Information). See the instructions for this form.

(2)(i) The annual report of an employee benefit plan that covers fewer than 100 participants at the beginning of the plan year and that meets the conditions in paragraph (c)(2)(ii) of this section with respect to a plan year may, as an alternative to the requirements of paragraph (c)(1) of this section, meet its

revisions to the ICR until after consideration of public comment on the July Proposal and promulgation of a final rule, describing any changes.

annual reporting requirements by filing the Form 5500–SF ''Short Form Annual Return/Report of Small Employee Benefit Plan'' and any statements or schedules required to be attached to the form, including Schedule SB (Single Employer Defined Benefit Plan Actuarial Information) and Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), completed in accordance with the instructions for the form. See the instructions for this form.

(ii) A plan meets the conditions in this paragraph (c)(2)(ii) with respect to the year if the plan:

(A) Does not hold any employer securities at any time during the year;

(B) Satisfies the audit waiver conditions in §§ 2520.104–46(b)(1)(i)(A)(1), (b)(1)(i)(B) and (b)(1)(i)(C);

(C) Had at all times during the plan year 100 percent of the plan's assets held for investment purposes invested in assets that have a readily determinable fair market value. For purposes of this section, the following shall be treated as assets that have a readily determinable fair market value: Shares issued by an investment company registered under the Investment Company Act of 1940; investment and annuity contracts issued by any insurance company, qualified to do business under the laws of a State, that provides valuation information at least annually to the plan administrator; bank investment contracts issued by a bank or similar financial institution, as defined in § 2550.408b–4(c) of this chapter, that provides valuation information at least annually to the plan administrator; securities (except employer securities) traded on a public exchange; government securities issued by the United States or by a State; cash or cash equivalents held by a bank or similar financial institution, as defined in § 2550.408b–4(c) of this chapter, by an insurance company, qualified to do business under the law of a State, by an organization registered as a broker-dealer under the Securities Exchange Act of 1934, or by any other organization authorized to act as a trustee for individual retirement accounts under section 408 of the Internal Revenue Code; and any loan meeting the requirements of section 408(b)(1) of the Act and the regulations issued thereunder; and

(D) Is not a multiemployer plan.

* * * * *

■ 3. Amend § 2520.104–44 by revising (b)(1)(iii) and (b)(2), and removing (b)(3) to read as follows:

§ 2520.104–44 Limited exemption and alternative method of compliance for annual reporting by unfunded plans and by certain insured plans.

* * * * *

(b) * * *

(1) * * *

(iii) Partly in the manner specified in paragraph (b)(1)(i) of this section and partly in the manner specified in paragraph (b)(1)(ii) of this section; and

(2) A pension benefit plan the benefits of which are provided exclusively through allocated insurance contracts or policies which are issued by, and pursuant to the specific terms of such contracts or policies benefit payments are fully guaranteed by an insurance company or similar organization which is qualified to do business in any State, and the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members: *Provided,* That contributions by participants are forwarded by the employer or employee organization to the insurance company or organization within three months of receipt and, in the case of a plan that provides for the return of refunds to contributing participants, such refunds are returned to them within three months of receipt by the employer or employee organization.

* * * * *

■ 4. In § 2520.104–46, add a new paragraph (e) and a new appendix to the section to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefits plan with fewer than 100 participants.

* * * * *

(e) *Model notice.* The appendix to this section contains model language for inclusion in the summary annual report to assist plan administrators in complying with the requirements of paragraph (b)(1)(i)(B) of this section to avail themselves of the waiver of examination and report of the independent qualified public accountant for employee benefit plans with fewer than 100 participants. Use of the model language is not mandatory. In order to use the model language in the plan's summary annual report, administrators must, in addition to any other information required to be in the summary annual report, select among alternative language and add relevant information where appropriate in the model language. Items of information that are not applicable to a particular plan may be deleted. Use of the model language, appropriately modified and supplemented, will be deemed to satisfy the notice content requirements of paragraph (b)(1)(i)(B) of this section.

Appendix to § 2520.104–46—Model Summary Annual Report Notice (Plan Administrators Will Need to Modify the Model to Omit Information That Is Not Applicable to the Plan)

The U.S. Department of Labor's regulations require that an independent qualified public accountant audit the plan's financial statements unless certain conditions are met for the audit requirement to be waived. This plan met the audit waiver conditions for the plan year beginning (insert year) and therefore has not had an audit performed. Instead, the following information is provided to assist you in verifying that the assets reported on the (Form 5500 or Form 5500-SF—select as applicable) were actually held by the plan.

At the end of the (insert year) plan year, the plan had (include separate entries for each regulated financial institution holding or issuing qualifying plan assets):

[Set forth amounts and names of institutions as applicable where indicated], [(insert $ amount) in assets held by (insert name of bank)], [(insert $ amount) in securities held by (insert name of registered broker-dealer)], [(insert $ amount) in shares issued by (insert name of registered investment company)], [(insert $ amount) in investment or annuity contract issued by (insert name of insurance company)].

The plan receives year-end statements from these regulated financial institutions that confirm the above information. [Insert as applicable—The remainder of the plan's assets were (1) qualifying employer securities, (2) loans to participants, (3) held in individual participant accounts with investments directed by participants and beneficiaries and with account statements from regulated financial institutions furnished to the participant or beneficiary at least annually, or (4) other assets covered by a fidelity bond at least equal to the value of the assets and issued by an approved surety company.]

Plan participants and beneficiaries have a right, on request and free of charge, to get copies of the financial institution year-end statements and evidence of the fidelity bond. If you want to examine or get copies of the financial institution year-end statements or evidence of the fidelity bond, please contact [insert mailing address and any other available way to request copies such as e-mail and phone number].

If you are unable to obtain or examine copies of the regulated financial institution statements or evidence of the fidelity bond, you may contact the regional office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) for assistance by calling toll-free 1.866.444.EBSA (3272). A listing of EBSA regional offices can be found at *http://www.dol.gov/ebsa.*

General information regarding the audit waiver conditions applicable to the plan can be found on the U.S. Department of Labor Web site at *http://www.dol.gov/ebsa* under the heading ''Frequently Asked Questions.''

■ 5. Amend § 2520.104a–2(a) to read as follows:

§ 2520.104a–2 Electronic filing of annual reports.

(a) Any annual report (including any accompanying statements or schedules) filed with the Secretary under part 1 of title I of the Act for any plan year (reporting year, in the case of common or collective trusts, pooled separate accounts, and similar non-plan entities) beginning on or after January 1, 2009, shall be filed electronically in accordance with the instructions applicable to such report, and such other guidance as the Secretary may provide.

* * * * *

■ 6. Revise the Appendix to § 2520.104b–10 to read as follows:

§ 2520.104b–10 Summary Annual Report.

* * * * *

APPENDIX TO § 2520.104B–10.—THE SUMMARY ANNUAL REPORT (SAR) UNDER ERISA: A CROSS-REFERENCE TO THE ANNUAL REPORT

SAR item	Form 5500 large plan filer line items	Form 5500 small plan filer line items	Form 5500–SF filer line items
A. PENSION PLAN:			
1. Funding arrangement	Form 5500–9a	Same	Not applicable.
2. Total plan expenses	Sch. H–2j	Sch. I–2j	Line 8h.
3. Administrative expenses	Sch. H–2i(5)	Sch. I–2h	Line 8f.
4. Benefits paid	Sch. H–2e(4)	Sch. I–2e	Line 8d.
5. Other expenses	Sch. H–Subtract the sum of 2e(4) & 2i(5) from 2j.	Sch. I–2i	Line 8g.
6. Total participants	Form 5500–6f	Same	Line 5b.
7. Value of plan assets (net):	Sch. H–1l [Col. (b)]	Sch. I–1c [Col. (b)]	Line 7c [Col. (b)].
a. End of plan year.			
b. Beginning of plan year	Sch. H–1l [Col. (a)]	Sch. I–1c [Col. (a)]	Line 7c [Col. (a)].
8. Change in net assets	Sch. H–Subtract 1l [Col. (a)] from 1l [Col. (b)].	Sch. I–Subtract 1c [Col. (a) from Col. (b)].	Line 7c–Subtract Col. (a) from Col. (b).
9. Total income	Sch. H–2d	Sch. I–2d	Line 8c.
a. Employer contributions	Sch. H–2a(1)(A) & 2a(2) if applicable.	Sch. I–2a(1) & 2b if applicable	Line 8a(1) if applicable.
b. Employee contributions	Sch. H–2a(1)(B) & 2a(2) if applicable.	Sch. I–2a(2) & 2b if applicable	Line 8a(2) & 8a(3) if applicable.
c. Gains (losses) from sale of assets.	Sch. H–2b(4)(C)	Not applicable	Not applicable.
d. Earnings from investments	Sch. H–Subtract the sum of 2a(3), 2b(4)(C) and 2c from 2d.	Sch. I–2c	Line 8b.
10. Total insurance premiums	Total of all Schs. A–6b	Total of all Schs. A–6b	Not applicable.
11. Unpaid minimum required contribution (S–E plans) or Funding deficiency (ME plans):.	Sch. SB–39	Same	Same.
a. S–E Defined benefit plans.			
b. ME Defined benefit plans	Sch. MB–10	Same	Not applicable.
c. Defined contribution plans	Sch. R–6c, if more than zero	Same	Line 12d.
B. WELFARE PLAN			
1. Name of insurance carrier	All Schs. A–1(a)	Same	Not applicable.
2. Total (experience rated and non-experienced rated) insurance premiums.	All Schs. A–Sum of 9a(1) and 10a.	Same	Not applicable.
3. Experience rated premiums	All Schs. A–9a(1)	Same	Not applicable.
4. Experience rated claims	All Schs. A–9b(4)	Same	Not applicable.
5. Value of plan assets (net):	Sch. H–1l [Col. (b)]	Sch. I–1c [Col. (b)]	Line 7c [Col. (b)].
a. End of plan year.			
b. Beginning of plan year	Sch. H–1l [Col. (a)]	Sch. I–1c [Col. (a)]	Line 7c [Col. (a)].
6. Change in net assets	Sch. H–Subtract 1l [Col. (a)] from 1l [Col. (b)].	Sch. I–Subtract 1c [Col. (a)] from 1c [Col. (b)].	Line 7c–Subtract [Col. (a)] from 7c [Col. (b)].
7. Total income	Sch. H–2d	Sch. I–2d	Line 8c
a. Employer contributions	Sch. H–2a(1)(A) & 2a(2) if applicable.	Sch. I–2a(1) & 2b if applicable	Line 8a(1) if applicable.
b. Employee contributions	Sch. H–2a(1)(B) & 2a(2) if applicable.	Sch. I–2a(2) & 2b if applicable	Line 8a(2) if applicable.
c. Gains (losses) from sale of assets.	Sch. H–2b(4)(C)	Not applicable	Not applicable.
d. Earnings from investments	Sch. H–Subtract the sum of 2a(3), 2b(4)(C) and 2c from 2d.	Sch. I–2c	Line 8b.
8. Total plan expenses	Sch. H–2j	Sch. I–2j	Line 8h.
9. Administrative expenses	Sch. H–2i(5)	Sch. I–2h	Line 8f.
10. Benefits paid	Sch. H–2e(4)	Sch. I–2e	Line 8d.
11. Other expenses	Sch. H–Subtract the sum of 2e(4) & 2i(5) from 2j.	Sch. I–2i	Line 8g.

Signed at Washington, DC, this 30th day of October, 2007.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E7–21765 Filed 11–15–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PENSION BENEFIT GUARANTY CORPORATION

RIN 1210–AB06

Revision of Annual Information Return/Reports

AGENCIES: Employee Benefits Security Administration, Labor, Internal Revenue Service, Treasury, Pension Benefit Guaranty Corporation.

ACTION: Notice of adoption of revisions to annual return/report forms.

SUMMARY: This document contains revisions to the Form 5500 Annual Return/Report forms, including the Form 5500 Annual Return/Report of Employee Benefit Plan and a new Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan (Short Form 5500 or Form 5500–SF), filed for employee pension and welfare benefit plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1986, as amended (Code). The Form 5500 Annual Return/Report forms, including the schedules and attachments, are an important source of financial, funding, and other information about employee benefit plans for the Department of Labor, the Pension Benefit Guaranty Corporation, and the Internal Revenue Service (the Agencies), as well as for plan sponsors, participants and beneficiaries, and the general public. The revisions to the Form 5500 Annual Return/Report forms contained in this document, including the new Short Form 5500, are intended to streamline the annual reporting process, reduce annual reporting burdens, especially for small businesses, update the annual reporting forms to reflect current issues and agency priorities, incorporate new reporting requirements contained in the Pension Protection Act of 2006, and facilitate electronic filing. Some of the forms revisions will apply on a transitional basis for the 2008 reporting year before all of the forms revisions are fully implemented for the 2009 reporting year as part of the switch under the ERISA Filing Acceptance System (EFAST) to a wholly electronic filing system (EFAST2). The forms revisions affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

DATES: Effective January 15, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Goodman or Michael I. Baird, Employee Benefits Security Administration (EBSA), U.S. Department of Labor, (202) 693–8523, for questions relating to the Form 5500, and its Schedules A, C, D, G, H, and I, and lines 1 through 11 of the Form 5500–SF (Short Form 5500), as well as the general reporting requirements under Title I of ERISA; Lisa Mojiri-Azad, Internal Revenue Service (IRS), Office of Chief Counsel, (202) 622–6060, or Ann Junkins, IRS, (202) 283–0722, for questions relating to Schedules SB, MB, and R of the Form 5500, lines 12 and 13 of the Short Form 5500, and the filing of Short Form 5500 instead of the Form 5500–EZ for plans that are not subject to Title I of ERISA, as well as questions relating to the general reporting requirements under the Internal Revenue Code; and Michael Packard, Pension Benefit Guaranty Corporation (PBGC), (202) 326–4080, ext. 3429, for questions relating to Schedules SB and MB of the Form 5500, and lines 13 through 19 of Schedule R, as well as questions relating to the general reporting requirements under Title IV of ERISA. For further information on an item not mentioned above, contact Mr. Baird. The telephone numbers referenced above are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

A. Background

Sections 101 and 104 of Title I and section 4065 of Title IV of the Employee Retirement Income Security Act of 1974, as amended (ERISA), sections 6058(a) and 6059(a) of the Internal Revenue Code of 1986, as amended (Code), and the regulations issued under those sections, impose certain annual reporting and filing obligations on pension and welfare benefit plans, as well as on certain other entities.[1] Plan administrators, employers, and others generally satisfy these annual reporting obligations by the filing of the Form 5500 Annual Return/Report of Employee Benefit Plan, including its schedules and attachments (Form 5500 Annual Return/Report), in accordance with the instructions and related regulations.

The Form 5500 Annual Return/Report is the principal source of information and data available to the Department of Labor (Department or Labor), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) (collectively, Agencies) concerning the operations, funding, and investments of about 800,000 pension and welfare benefit plans. These plans cover an estimated 150 million participants and hold an estimated $4.3 trillion in assets. Accordingly, the Form 5500 Annual Return/Report constitutes an integral part of each Agency's enforcement, research, and policy formulation programs, and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as a primary means by which plan operations can be monitored by participants and beneficiaries and by the general public.

On July 21, 2006, the Department published a final rule requiring electronic filing of the Form 5500 Annual Return/Report for reporting years beginning on or after January 1, 2008 (Electronic Filing Rule). 71 FR 41359. Simultaneously with the publication of the Electronic Filing Rule, the Agencies published a notice of proposed forms revisions (July 2006 Proposal) proposing changes to the Form 5500 Annual Return/Report for the 2008 reporting year. 71 FR 41615. On December 11, 2006, the Agencies published a Notice of Supplemental Proposed Forms Revisions (Supplemental Notice). 71 FR 71562. The Supplemental Notice was necessary to make changes to the Form 5500 Annual Return/Report required by the Pension Protection Act of 2006, Pub. L. 109–280, 120 Stat. 780 (2006), enacted on August 17, 2006 (PPA).

The Agencies received 38 comment letters on the July 2006 Proposal,[2] and seven comments on the Supplemental Notice. Comments were submitted by various members of the regulated community, including representatives of employers, plans, and plan service providers. Copies of the comments are

[1] Other filing requirements may apply to certain employee benefit plans and to multiple-employer welfare arrangements under ERISA or to other benefit arrangements under the Code, and such other filing requirements are not within the scope of this Notice. For example, Code sec. 6033(a) imposes an additional reporting and filing obligation on organizations exempt from tax under Code sec. 501(a), which may be related to retirement trusts that are qualified under sec. 401(a) of the Code.

[2] The Agencies also received a comment letter from the United States Department of Commerce, Economic and Statistics Administration, Bureau of Economic Analysis (BEA), that indicated that the BEA relies on the information collected in the Form 5500 to prepare certain statistics.

posted on the Department's Web site at *http://www.dol.gov/ebsa/regs.*

After careful consideration of the issues raised by the written public comments, the Agencies decided to adopt the forms largely as proposed, but, in an attempt to strike a balance between ensuring adequate reporting and disclosure to participants, beneficiaries, and the Agencies, on the one hand, and the costs and administrative burdens attendant to the administration and maintenance of employee benefit plans on the other, the Agencies revised some of the annual reporting requirements in response to public comments. The Agencies now are publishing in this Notice the final forms revisions for the Form 5500 Annual Return/Report (including the Short Form 5500), generally effective for the 2009 reporting year (with certain transition changes effective for the 2008 reporting year). Set forth below is a general summary of the public comments received in response to the proposals, changes made in response to those comments, and an overview of the final forms revisions being adopted in this Notice.

The Agencies are printing in this Notice information copies of the 2009 Form 5500, 2009 Form 5500–SF, and 2009 Schedules A, SB, MB, C, D, G, H, I, and R. This Notice also includes information copies of the related instructions, except for the instructions to the Schedule SB and MB and certain new questions on the Schedule R, which the Agencies will publish after the Treasury/IRS develop the underlying substantive guidance under the PPA, and certain instructions relating to electronic filing procedures under the EFAST2 system. Information copies of the forms and the instruction package will also be posted on the Department's Web page at *http://www.dol.gov/ebsa.* Because of the switch to EFAST2 and a wholly electronic filing requirement, the information copies of the 2009 annual return/report forms printed in this Notice are not acceptable for and cannot be used for filing an annual return/report under the EFAST2 system. Once the EFAST2 contract is awarded to a firm to develop the new wholly electronic filing system for the 2009 Form 5500 Annual Return/Report forms, including the Form 5500–SF, the contractor may as part of its development of the new system need to make technical reformatting changes to the forms that may affect the appearance of the forms. Details on any changes to the appearance of the forms and on the wholly electronic filing and processing system, including details on electronic signature requirements, will be available as the contract is awarded and the system development is finalized. Although the paper forms will not be used for filing under the EFAST2 system, the final format of the forms and schedules will be the required format for satisfying disclosure obligations under ERISA, including the plan administrator's obligation to furnish copies of the annual report to participants and beneficiaries on request pursuant to section 104(b) of ERISA.

B. Discussion of the Public Comments

1. Deferral of Forms Revisions and Electronic Filing Mandate to the 2009 Plan Year

A significant number of the commenters, including several large industry groups representing plan sponsors and service providers, asked for a delay in the effective date of the forms changes. A number of the commenters asked for additional time to comment due to work being done to implement new statutory requirements enacted as part of the PPA. Some commenters also suggested that the comment period should be extended to allow more time to address the Schedule C (Service Provider Information) changes due to the significance of the changes in plan fee and expense reporting, the attendant compliance costs, and a desire to evaluate the Schedule C changes in conjunction with proposed regulations the Department has announced it will be publishing under ERISA section 408(b)(2).[3] Three different commenters suggested that the effective date for the new reporting requirements for Code section 403(b) plans be delayed until after the IRS publishes its final regulation on Code section 403(b) plans. Some commenters urged that the effective date be extended for the Form 5500 Annual Return/Report changes until 2009 or 2010 at the earliest to allow sufficient time to make necessary changes to comply with the new requirements. One commenter, who requested a delayed implementation date generally for the new forms and electronic filing requirement, suggested an earlier implementation date for the Short Form 5500 as a way of satisfying the PPA requirement of a simplified report for plans with fewer than 25 participants.

The proposed revisions to the Form 5500 Annual Return/Report, which include both those set forth in the Agencies' July 2006 Proposal and those in the Supplemental Notice to address changes required by the PPA, are part of the switch under the ERISA Filing Acceptance System (EFAST) to a wholly electronic filing and processing system (EFAST2) that would replace the existing largely paper-based filing system. As part of that e-filing initiative, and as noted above, the Department published the Electronic Filing Rule, establishing an electronic filing requirement for annual reports filed for plan years beginning on or after January 1, 2008. In adopting the final Electronic Filing Rule, the Department responded to public comments seeking a delay in the wholly electronic filing system by agreeing to a one year deferral of the electronic filing mandate from the 2007 plan year to the 2008 plan year. The Department agreed to the deferral in order to facilitate an orderly and cost-effective migration to an electronic filing system by both the Department and the regulated community. Under the final Electronic Filing Rule published in July 2006, the vast majority of filers would have had until at least July 2009 to make any necessary adjustments to accommodate the electronic filing of their annual report because annual reports generally are not required to be filed until the end of the 7th month following the end of the plan year. The timing also provided service providers, software developers, and the Department additional time to work through electronic filing and processing issues.

In evaluating the public comments seeking a further deferral of the implementation of the revised forms and, as a consequence, the electronic filing requirement, the Agencies evaluated the benefits of giving the regulated community more time to transition to the new EFAST2 electronic filing system, keeping in mind the effective dates mandated by the PPA for certain of the annual reporting changes. The Agencies continue to believe it is important for plans, service providers, and the Agencies to have an orderly and cost-effective migration to the EFAST2 electronic filing system. In light of the substantial number of comments expressing concern about needing more time to adjust recordkeeping and other annual reporting systems, the Agencies have decided to defer for an additional

[3] As set forth in the Department's semi-annual regulatory agenda, 72 FR 22845, the rulemaking would amend the regulation at 29 CFR section 2550.408b–2 setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office spaces or services. The proposed amendment is intended to ensure that plan fiduciaries are provided or have access to the information necessary to determine whether an arrangement for services is ''reasonable'' within the meaning of the statutory exemption, as well as within the meaning of the prudence requirements of ERISA section 404(a)(1)(B).

year the implementation of annual reporting forms changes not mandated by the PPA,[4] except for a few Schedule R items that the PBGC had determined that it needs to enable it to properly monitor the plans it insures. Thus, the current EFAST filing system will be continued for the 2007 and 2008 plan year filings. This includes the requirements to file the Schedule E, the Schedule SSA, and the IRS Form 5500–EZ, ''Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan'' (Form 5500–EZ), under the current EFAST system with the Department for the 2007 and 2008 reporting years. Also, as provided in the Electronic Filing Rule, delinquent or amended filings for prior plan years for which paper filing options were available also will be subject to the electronic filing requirement. The deferral of the electronic filing requirement applies to delinquent and amended filings. The Department will provide instructions prior to the inauguration of the system on how those filings are to be made under the electronic filing system.

Under the final regulations, the electronic filing requirement and all of the forms changes, except for those mandated by the PPA and the PBGC's new Schedule R items discussed below, will become effective for all annual report filings made under Part 1 of Subtitle B of Title I of ERISA for plan years (or reporting years for non-plan filings) beginning on or after January 1, 2009.[5]

To effectuate the postponement of the electronic filing requirement, the Department, in the final rule being published contemporaneously with this Notice amending its annual reporting regulations, is including an amendment to the Electronic Filing Rule. Specifically, that final rule amends the Department's regulation at 29 CFR 2520.104a–2 to provide that the electronic filing requirement is applicable for plan years beginning on or after January 1, 2009. The vast majority of filers will now have until at least July 2010 to make any necessary adjustments to accommodate the non-PPA required changes (other than the PBGC Schedule R changes) to the form and those required for electronic filing of their annual report because, as noted above, annual reports generally are not required to be filed until the end of the 7th month following the end of the plan year.

Short plan year filings for 2009 plan years and filings for DFEs for 2009 reporting years will be subject to a special transition rule. The instructions to the Form 5500 Annual Return/Report advise filers that the due date for their Form 5500 for a plan year of less than 12 months (short plan year) is the last day of the 7th month after the short plan year ends. For purposes of determining the filing deadline, the instructions state that a short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan in the case of terminated or merged plans. For DFE filings, the instructions provide that DFEs (other than GIAs) must file 2009 return/reports no later than nine and one half months after the end of the DFE year that ended in 2009, and the 2009 Form 5500 must report information for the DFE year (not to exceed 12 months in length). The Agencies historically have permitted short plan year filers and DFEs to use the prior year's forms if the current year forms are not available by the plan's or DFE's filing due date. The Agencies expect that, in some cases, filings for 2009 short plan years and DFE filings for 2009 reporting years (e.g., if the DFE year differs from the 2009 calendar year) may be due during 2009 and before the January 1, 2010, date on which the new EFAST2 wholly electronic filing system is expected to become operational for return/report filing purposes. Plans filing for 2009 short plan years and DFEs filing for 2009 reporting years will have the option of using the 2008 Form 5500 Annual Return/Report forms and filing for 2009 under the current EFAST filing system if they file before the date the new EFAST2 electronic filing system becomes operational. Alternatively, plans whose due date for their 2009 short plan year filing and DFEs whose due date for their 2009 reporting year filing falls before the new EFAST2 system becomes operational but who want to file electronically under the new EFAST2 system will be granted an automatic extension until after the EFAST2 system becomes operational in which to file. The Agencies intend to describe the terms and conditions for the automatic extension in the instructions for the 2008 Form 5500 Return/Report.

a. PPA-Required Actuarial Schedules, Multiemployer Plan Reporting, and Asset Allocation Information

The PPA-required changes in the Form 5500 Annual Return/Report (other than the simplified reporting requirement) are the new actuarial information schedules (Schedules SB and MB), lines 13a and 13b of the Schedule R (identifying information on significant contributors to multiemployer defined benefit plans), lines 14–17 of the Schedule R (additional information related to multiemployer defined benefit pension plans), line 18 of the Schedule R (certain liabilities to participants and beneficiaries under two or more pension plans), and, for multiemployer defined benefit plans only, the new line 7 of the Form 5500 (number of employers with an obligation to contribute to the multiemployer plan).[6] To comply with the PPA, these reporting changes are being implemented under the current EFAST system for 2008 plan year annual reports.

The Agencies concluded that it would not be cost-effective or practical to create computer scannable versions of the Form 5500 and these schedules to be compatible with the outdated EFAST computer scannable form technology because these forms would have a limited one year useful life under the EFAST system during the transition period before implementation of the EFAST2 electronic filing system. Effective for the 2008 transition year, plans required to file actuarial information must check the box on the Form 5500 to indicate that they are filing a Schedule B, but instead of filing the current Schedule B, they will file Schedule SB or MB (whichever is applicable). The Schedule B will no longer be a valid schedule for 2008 plan year filings. Plan year 2008 Form 5500 Annual Return/Reports filed by pension plans subject to the minimum funding rules must include a Schedule SB or MB and not a Schedule B for 2008 plan years. Filings that include a Schedule B instead of a Schedule SB or MB will be rejected. As to the other PPA-required items (lines 13a, 13b, and 14–18 of Schedule R and line 7 of Form 5500), for

[4] It is significant to note that the implementation of the annual reporting form changes not mandated by the PPA has been deferred until after the publication of the IRS final regulations on Code section 403(b) plans.

[5] The Supplemental Notice explained that the Department believed that the EFAST2 system would satisfy the PPA requirement that the Department make available electronically on its Web site certain actuarial information filed as part of the Form 5500 Annual Return/Report. See PPA § 504, 29 U.S.C. § 104(b). The Department believes that the related provision in the PPA calling for actuarial information to be filed electronically was intended to facilitate the Department's ability to meet its obligation to post the actuarial information on its Web site within 90 days after the information is filed as part of the plan's annual report. The Department believes it can still satisfy the web posting requirement under the current EFAST system without imposing a special electronic filing requirement on defined benefit pension plans for the transition 2008 plan year.

[6] The text of the question on the new line 7 has been revised from that in the July 2006 proposal to exactly match the language in the annual reporting requirement in the PPA.

the transition year, filers will be directed in the instructions to include answers to those questions as an attachment to the current Schedule R. Similarly, lines 13c–e (for multiemployer defined benefit plans) and line 19 (asset allocation questions for large defined benefit plans) of the Schedule R also are being implemented on a transition basis for 2008 plan year annual reports. Filers will also be directed in the instructions to include answers to these lines as an attachment to the Schedule R.

The Agencies also changed the 2007 Form 5500 Annual Return/Report instructions for short plan year filings (filings for years of less than 12 months) to accommodate these PPA changes. Specifically, the instructions to the Form 5500 Annual Return/Report historically have advised filers that the due date for their Form 5500 for a plan year of less than 12 months (short plan year) is the last day of the 7th month after the short plan year ends. For purposes of determining the filing deadline, the instructions state that a short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan in the case of terminated or merged plans. The Agencies have permitted short plan year filers to use the prior year's forms if the current year forms for the short plan year are not available by the plan's filing due date. The Agencies expect that, in some cases, filings for 2008 short plan years may be due during 2008 and before the final regulations and instructions for the Schedule SB or MB are available. Since the Schedule B will not be a valid schedule for plan year 2008 filings, filers will not have the option of using the 2007 Schedule B with a 2008 short plan year filing, but will be required to wait until the 2008 Forms are available for filing. The Agencies have indicated in the instructions for the 2007 Form 5500 Annual Return/Report that an automatic extension that will be available for 2008 short plan year filings required to include a Schedule SB or Schedule MB and/or a supplemental attachment to Schedule R.

b. PPA-Required Simplified Reporting for Plans With Fewer Than 25 Participants

As noted in the Supplemental Notice, section 1103(b) of the PPA requires a simplified report for plans with fewer than 25 participants at the beginning of the plan year to be available for 2007 plan year filings, i.e., filings for plan years beginning after December 31, 2006. The Supplemental Notice proposed to satisfy the simplified report requirement for 2008 plan years, i.e., those beginning after December 31, 2007, by implementing the Short Form for 2008 plan year reports under the new EFAST2 system. The Supplemental Notice explained the Agencies' intention for the interim 2007 reporting year to give plans covering fewer than 25 participants that met the conditions for being eligible to file the Short Form 5500 the option of filing an abbreviated version of the current Form 5500 Annual Return/Report for small plan filers. The Supplemental Notice explained that the abbreviated version would largely replicate, within the context of the existing Form 5500 Annual Return/Report structure, the information that would be required to be reported on the proposed Short Form 5500 by allowing certain schedules to be excluded from the filing and requiring only certain line items to be completed on some of the required schedules. With the additional deferral of the electronic filing requirement, this simplified reporting option for plans with fewer than 25 participants will be available for both the 2007 and 2008 plan year filings.

For the 2007 and 2008 plan years, plans with fewer than 25 participants at the beginning of the plan year that meet the eligibility requirements for the Short Form 5500, treating those conditions as if they applied for 2007 and 2008 plan year filings, may file the following as their annual return/report: (1) The entire Form 5500; (2) a Schedule A for any insurance contract for which a Schedule A is required under current rules, completing lines A, B, C, D and the insurance fee and commission information in Part I; (3) if the reporting of actuarial information is required, the entire Schedule B for the 2007 plan year, and the entire Schedule SB or MB (whichever is applicable) for the 2008 plan year; (4) the entire Schedule I; (5) Schedule R identifying information and Part II; and (6) the entire Schedule SSA. The instructions to the 2007 Form 5500 Annual Return/Report explain and 2008 Form 5500 Annual Return/Report will explain, respectively, this simplified reporting option.

Some eligible small plan filers may want to wait until the implementation of the Short Form 5500 for the 2009 plan year in order to avoid having to make changes to their annual reporting systems and procedures for 2007 and 2008 plan year filings and then having to adjust them again to start filing the Short Form 5500 electronically for the 2009 plan year. The above simplified reporting alternative, accordingly, is available for plans that voluntarily choose to take advantage of the option. Plans with fewer than 25 participants may continue to file in accordance with the otherwise applicable small plan filing rules for the 2007 and 2008 plan years. Small plans with 25 or more participants that meet the eligibility requirements must wait until the 2009 plan year to take advantage of the Short Form's simplified reporting.

2. Short Form 5500

The Short Form 5500 was proposed as a new two-page form for small plans (generally, plans with fewer than 100 participants) with secure and easy to value investment portfolios. As set forth in greater detail in the July 2006 Proposal, a plan would be eligible to file the Short Form if the plan: (1) Covers fewer than 100 participants or would be eligible to file as a small plan under the rule in 29 CFR 2520.103–1(d); (2) is eligible for the small plan audit waiver under 29 CFR 2520.104–46 (but not by virtue of enhanced bonding); (3) holds no employer securities; (4) has 100% of its assets in investments that have a readily determinable fair market value; and (5) is not a multiemployer plan.

Commenters on the July 2006 Proposal generally supported the proposed Short Form 5500 as a way to simplify the annual reporting requirements and reduce annual reporting burdens for small plans. The Agencies, accordingly, have decided to adopt the Short Form 5500 largely as proposed with only minor technical revisions to the form and the accompanying instructions.

Two commenters suggested that the Agencies relax the conditions for plans to be eligible to file the Short Form 5500. The commenters noted the requirement in the PPA (enacted after the July 2006 Proposal was published) that Labor and the Department of the Treasury (Treasury) jointly develop a simplified report for plans that cover fewer than 25 employees. One of the commenters suggested that Labor and Treasury use the Short Form 5500 to meet this requirement by eliminating any other eligibility conditions for plans covering fewer than 25 participants. That commenter also suggested that the Short Form 5500 eligibility requirement—that the plan hold 100% of its assets in secure, easy to value investments—be modified so that it tracked the 95% ''qualifying plan asset'' threshold that currently applies under the Department's regulation at 29 CFR 2520.104–46 for small pension plans to be eligible for the waiver of the general Title I requirement for employee benefit plans to be audited annually by an independent qualified public accountant (IQPA). Two other

commenters objected to the Short Form 5500 and reduced annual reporting for small plans, asserting that small plans, especially those with fewer than 25 participants, are more likely than plans of larger companies to suffer from mismanagement of funds and improper administration. Notwithstanding the PPA mandate to develop a simplified annual report, the commenters urged requiring more detailed reporting for small plans as a way of protecting against such abuses.

The Department of Labor and the Department of Treasury continue to believe, as set forth in the Supplemental Notice, that the requirement in the PPA to provide ''simplified'' reporting for plans with fewer than 25 participants is satisfied by the simplified reporting scheme in the July 2006 Proposal. In addition, the Department of Labor does not view the PPA provision as a direction from Congress that was intended to preclude the Department from determining that plans with fewer than 25 participants should meet conditions consistent with the purposes of Title I and the PPA to be eligible to file the new simplified report. To the contrary, the Department believes the PPA provision should be read consistently with the authority granted the Department in ERISA section 104(a)(2) and 104(a)(3) to create simplified reports for pension and welfare plans, both of which provisions acknowledge that the Department has such discretion. The Short Form 5500, as proposed, was targeted to provide a simplified report for plans with fewer than 25 participants. Approximately 75% of all plans eligible to file the Short Form 5500 cover fewer than 25 participants and approximately 95% of plans with fewer than 25 participants are estimated to be eligible to file the Short Form 5500. The decision to prohibit multiemployer plans and plans that invest in employer securities from being eligible to use the Short Form 5500 is consistent with the PPA's emphasis on expanding the annual reporting requirements for multiemployer plans and increasing transparency and participant control over employer securities in individual account plans. As under the July 2006 Proposal, even those small plans not eligible to use the Short Form 5500 still would be able to avail themselves of the other simplified reporting options available to small plans under the Form 5500 Annual Return/Report. The commenter's suggestion to eliminate all of the Short Form 5500 eligibility conditions for plans covering fewer than 25 employees therefore has not been adopted.

The suggestion to modify the condition that 100% of the plan's assets are held in investments that have a readily determinable fair market value also is not being adopted. As noted above, the Short Form 5500 conditions already require plans to satisfy the audit waiver conditions in 29 CFR 2520.104–46 to be eligible to file the Short Form. The condition in the audit waiver regulation that 95% of the plans assets be ''qualifying plan assets,'' focuses on whether the assets are held by a regulated financial institution, The Short Form 5500 condition regarding types of plan investments, in contrast, is based on a premise that certain small plans, by virtue of all of their assets being held by regulated financial institutions and having a readily determinable fair market value, present reduced risks for their participants and beneficiaries. Using any percentage measure for assets with a readily determinable fair market value would create a risk that hard to value assets would be materially undervalued in order to meet the percentage threshold and result in plans with substantial holdings in hard to value assets being eligible to file the Short Form 5500. The Agencies continue to believe that the separate financial information regarding hard to value investments on the Schedule I is important for regulatory, enforcement, and disclosure purposes. The Agencies are not changing this provision because of their concerns that allowing plans with any hard to value assets to use abbreviated annual report filing (i.e., the Short Form 5500) could compromise enforcement and research needs of the Agencies and disclosure needs of participants and beneficiaries in such plans.

3. Code Section 403(b) Plan Reporting

Under the July 2006 Proposal, the limited annual reporting options currently available to Code section 403(b) plans would have been eliminated so that Code section 403(b) plans would be subject to the same annual reporting rules that apply to other ERISA-covered pension plans. Two commenters representing employee benefit plan auditors and administrative service providers were supportive of the Department's proposal and agreed that requiring Code section 403(b) plans to comply with the same annual reporting rules that applied to other ERISA covered pension plans would improve transparency and accountability. Other commenters representing 403(b) plan sponsors and insurance and investment companies opposed the proposal. Those opposing the expanded reporting requirement argued that compliance with the reporting requirement would be both burdensome and costly given the fact that most 403(b) plans are a composite of individual contracts issued to employees by different 403(b) vendors without a central point for administration and recordkeeping. The commenters claimed that there is no record of abuse in the 403(b) plan area that supported the proposed changes. Certain commenters also suggested that different annual reporting rules for Code section 403(b) plans are justified by the fact that the tax exempt employers that sponsor Code section 403(b) plans do not have a tax incentive for sponsoring pension plans for their employees and might be more likely to terminate plans or refuse to sponsor plans based on concerns about administrative costs and burdens.

After evaluating the comments, the Department continues to believe that subjecting Code section 403(b) plans to the same annual reporting rules that apply to other ERISA covered pension plans is consistent with the purposes of Title I of ERISA and the interests of covered participants and beneficiaries. The approach to annual reporting by tax sheltered annuity programs was premised historically on the conclusion that they differed from ordinary pension or deferred compensation plans. Code section 403(b) plans, which date back to 1958, were originally less in the nature of a plan than of an arrangement under which an employer purchased from an insurance company on behalf of an employee an individual annuity contract that could be tailored to the desires and financial means of the individual employee. Because contributions were required to be invested only in annuity contracts or in certain mutual fund custodial accounts, the Department had believed that the regulatory supervision of insured annuity contracts and of regulated investment companies provided much of the disclosure, fiduciary and funding protection afforded by Title I of the Act. The Department also had concluded that because section 403(b) programs may be individually tailored, the reporting and disclosure provisions of Title I could present substantial administrative difficulties for the employer and for the Department. Finally, the Department viewed section 403(b) programs as similar to individual retirement account (IRA) based plans that were granted an exemption from the annual reporting requirements under Title I provided they met certain conditions.

As the IRS indicated in the preamble to the recently published final regulations on Code section 403(b) plans (72 FR 41128, Jul. 26, 2007), various amendments to section 403(b) over the past 40 years have diminished the extent to which the rules governing Code section 403(b) plans differ from the rules governing other employer-based plans, such as arrangements that include salary reduction contributions, i.e., Code section 401(k) plans. The IRS's final Code section 403(b) regulations would impose requirements involving the establishment of a more centralized system of recordkeeping for all Code section 403(b) plans. The establishment and growth since 1978 of 401(k) plans has made the ''individually tailored'' character of Code section 403(b) plans less distinctive. Section 401(k) plans are often structured as participant directed with multiple investment options offered by separate investment providers, and many plans include brokerage accounts as a way of allowing employees to further tailor the plan to their individual investment objectives and financial means. Developments in the Code section 403(b) plan market have also raised questions about whether regulatory supervision of Code section 403(b) plan vendors under insurance and securities laws provides much of the disclosure, fiduciary, and funding protections afforded by Title I of the Act. In the fiscal years 2002 through 2006, the Department found violations in 78 percent of its investigations of Code section 403(b) plans. Although the predominant issue in these investigations was delinquent employee salary contributions, investigations of Code section 403(b) plans also revealed delinquent employer contributions, imprudence, prohibited uses of assets, and reporting and disclosure violations. The high incidence of improper handling of employee contributions suggests a potentially broader laxity in fiduciary oversight. There are also reports that governmental entities that sponsor Code section 403(b) plans (which generally would be excluded from ERISA as governmental plans) are concerned about undisclosed fees, penalties, and restrictions in their Code section 403(b) plans and are making demands for additional disclosures. *See, e.g.,* California Assembly Bill 2506, signed Sept. 29, 2002 (codified at Cal. Education Code secs. 25100–25115).

The Department believes that the annual report requirements, including an audit by an IQPA, provide important oversight of the Code section 403(b) plan's internal control structure and overall operations. The Department believes that preparing the financial statements and schedules as part of the annual report in compliance with the Department's requirements for reporting and disclosure under ERISA provides participants with greater assurance that the plan administrator or other authorized parties have properly monitored the financial condition and operation of the plan. The impact of having to meet the same annual reporting requirements applicable to other ERISA-covered plans would be substantially less burdensome for small tax-exempt employers, which generally should be eligible for the small plan audit waiver and for filing the Short Form 5500.

While the new annual report requirements may result in additional costs to a Code section 403(b) plan, these reporting requirements would only apply to Code section 403(b) plans that are subject to Title I of ERISA and would subject those plans only to the same annual reporting requirements that apply to other ERISA-covered pension plans. In such cases, the administration and management of the Code section 403(b) plan have already been subject to ERISA's general fiduciary obligations. Such plans should, therefore, already have an administrative structure in place to ensure compliance with various Title I requirements, such as having a written plan document, furnishing summary plan descriptions and other ERISA required disclosures to participants and beneficiaries, and maintaining an adequate recordkeeping system so that the plan fiduciaries can prudently manage the plan and monitor plan service providers. In the Department's view, the process of preparing an annual report reinforces a recordkeeping and monitoring discipline on plan officials that facilitates better fiduciary compliance. In that regard, the Department does not believe that it would be helpful to adopt the suggestion by one commenter to have Code section 403(b) plans answer only a single or limited number of questions focused just on timely transmission of employee salary reduction contributions to the plan. The Department does not believe that continuing a general exemption from the audit requirement for Code section 403(b) plans subject to Title I annual reporting requirements is appropriate.

As noted in the preamble to the July 2006 Proposal, small Code section 403(b) plans (generally covering fewer than 100 participants) should be able to meet the conditions for being exempt from the audit requirement and be eligible to file the proposed Short Form 5500.[7] Thus, relative to the current requirements, the final rule provides significant annual reporting and audit relief for small tax exempt employers. In that regard, in the Department's view, Code section 403(b) plans that were eligible to file as a small plan under 29 CFR 2520.103–1(d) in the previous year and that have participant counts of less than 121 at the beginning of the 2009 plan year can file as small plans under the new filing rules.

One commenter that supported the proposal to apply generally applicable annual reporting rules to Code section 403(b) plans suggested that interim relief may be needed because auditors may refuse to take on initial engagements because records from prior years may not be adequate for current year audit purposes. Although Code section 403(b) plans have not yet been subject to an audit requirement as part of the annual reporting process, as noted above, fiduciaries of such plans must keep records under ERISA section 107 to verify that they are in fact eligible to file as Code section 403(b) plans and have a general fiduciary obligation to keep adequate records to monitor the plan and ensure compliance with the fiduciary and other substantive requirements of Title I of ERISA.[8]

[7] One commenter expressed concern that some Code section 403(b) investments might not meet the Short Form 5500 eligibility requirement that 100% of the plan's assets be held in investments that have a readily determinable fair market value. The instructions published with the July 2006 Proposal specifically provided that investments in mutual fund shares and insurance contracts for which valuation information is provided by the insurer at least annually were assets that had a ''readily determinable fair market value'' for purposes of the Short Form 5500 eligibility conditions. Those instructions are carried over into the instructions to the final Short Form 5500.

[8] One commenter argued that Code section 403(b) plans covered by ERISA have no ERISA section 107 recordkeeping obligations under Title I because they file under an alternative method of compliance under section 110 of ERISA, not under a simplified report or exemption under section 104 of ERISA, and ERISA section 107 only requires administrators to keep records necessary to verify the information actually filed on the Form 5500 when it is filed as an alternative method of compliance. ERISA section 107 provides that ''[e]very person subject to a simplified requirement to file any report or to certify any information therefor under this title or who would be subject to such a requirement but for an exemption or simplified reporting requirement under section 104(a)(2) or (3) of this title, shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness. . . .'' Accepting the commenter's argument would lead to the anomalous result that large Code section 403(b) plans would have very limited recordkeeping obligations under ERISA section 107, but plans exempt from any Form 5500 filing requirement would be required to keep records necessary to verify the information that would be required to be

Further, Code section 403(b) plans are required to maintain various records in order to comply with Code requirements including, for example, discrimination testing, required distributions and compliance with maximum contribution limitations. Despite the existing recordkeeping requirements, the Department recognizes that auditors may face difficulties in providing an unqualified opinion in their initial audits of Code section 403(b) plans. In that regard, the final forms changes defer the reporting year to which this requirement applies for an additional year from that in the proposal. This Notice is thus being published over a year before the first plan year for which plan audits would be required, and over two years before the plan audits themselves would likely be commenced. In light of the extended lead time the publication date gives plans to make changes to their recordkeeping practices and make certain they have access to the necessary records in anticipation of the audit for the 2009 plan year, in the Department's view, it would be premature at this point to announce general transitional relief from the audit requirement. The Department will, however, remain open to reconsidering the issue to the extent developments suggest that a transitional enforcement policy or other transitional relief would be appropriate to address problems caused by lack of familiarity with the audit process or is needed to facilitate a smoother transition to the new annual reporting regime by Code section 403(b) plans.

A few commenters contended that the ''universal availability'' requirement applicable to Code section 403(b) plans under the Internal Revenue Code and Treasury Department regulations will unfairly result in Code section 403(b) plans with only a small number of active participants being subject to the large plan audit requirement because all eligible employees are counted as covered participants. The Department notes that Code section 401(k) plans are currently subject to a similar rule where all employees who are eligible to make salary reduction contributions are required to be counted as participants regardless of whether they in fact make any contributions. The Department also expects that, like Code section 401(k) plans, a substantial percentage of large Code section 403(b) plans should be eligible for limited relief from the full audit requirement by taking advantage of the limited scope audit option available under the Department's regulation at 29 CFR 2520.103–8.

Some additional technical changes were made to the final forms to make it clear that certain annual reporting options available to Code section 401(k) plans are also available to Code section 403(b) plans. Specifically, the Schedule H instructions have been modified to provide for aggregate reporting on Lines 4i (Schedule of Assets Held for Investment Purposes) and Line 4j (Schedule of Reportable Transactions) for individual annuity contracts and custodial accounts in Code section 403(b) plans as is currently permitted for participant-directed accounts in Code section 401(k) plans. In addition, the Schedule A instructions have been expanded to make clear that the current rule allowing filers to report a group of individual policies issued by the same insurer on a single Schedule A would apply for Code section 403(b) individual annuity contracts. At the request of one commenter, Line 9 of the Form 5500 has been changed to make clear that Code section 403(b) plans that are funded with and pay benefits through Code section 403(b)(7) ''custodial accounts'' should check ''trust'' for both funding and benefit arrangement.

Finally, in light of the additional annual reporting obligations associated with maintaining a Code section 403(b) plan that is covered by Title I, several commenters stated that more guidance was necessary on the Department's safe harbor regulation at 29 CFR 2510.3–2(f) to assist plans in determining whether they were covered by Title I of ERISA. The commenters stated that this guidance was especially important in light of Treasury's then anticipated issuance of final regulations at 72 FR 41128, TD 9340 reflecting legislative changes made to Code section 403(b) since the existing regulations were adopted in 1964 and incorporating interpretive positions that Treasury has taken in other guidance on Code section 403(b). The Department's safe harbor at 29 CFR 2510.3–2(f) states that a program for the purchase of an annuity contract or the establishment of a custodial account in accordance with provisions set forth in Code section 403(b) and funded solely through salary reduction agreements or agreements to forego an increase in salary, are not ''established or maintained'' by an employer under section 3(2) of ERISA, and, therefore, are not employee pension benefit plans subject to Title I, provided that certain factors are present. The Department agrees that it is important for Code section 403(b) plans to be able to determine whether they are covered by Title I for annual reporting and other ERISA compliance purposes. Thus, the Department issued guidance contemporaneously with Treasury's issuance of its revised regulations under Code section 403(b) on the continued availability of the safe harbor at 29 CFR 2510.3–2(f) and the interaction of the Department's safe harbor and the provisions of the Treasury regulations addressing employer tax compliance obligations in the ongoing operation of a Code section 403(b) arrangement. *See* FAB 2007–02 (July 24, 2007) (available on the Internet at *http://www.dol.gov/ebsa/regs/fabmain.html*).

4. Schedules SB and MB (Pension Plan Actuarial Information)

Draft Schedules SB and MB were posted on the Department's Web site in conjunction with the Supplemental Notice. Instructions for these draft Schedules were not posted nor are they included in this Notice because their development hinges on guidance to be issued by the IRS and/or the PBGC implementing the PPA requirements underlying the Form 5500 Annual Return/Report data elements. Specific guidance regarding the details required in Schedule SB and Schedule MB will be provided in future guidance and will be included in the instructions.

The Agencies received no comments related to the new Schedule MB and multiple comments from one commenter on Schedule SB. That commenter suggested that Line 4a be eliminated because it is identical to the entry in the second column of Line 3d. The Agencies note that the amount reported on Line 4a will not be the same as the amount reported in Line 3d and that this will be made clear in the instructions.

This commenter also suggested that item 6 be expanded to have one line for reporting regular target normal cost and another line for reporting at-risk target normal cost. The Agencies acknowledge that some plans will need to calculate both amounts in order to determine target normal cost, but conclude that it is not necessary to require that these interim calculations be reported. Guidance regarding the details of this calculation will be included in the instructions.

This commenter suggested that the words ''not less than zero'' be added to

filed under section 103 of ERISA. In any event, all Code section 403(b) plans filing a Form 5500 under the limited reporting provisions available to Code section 403(b) plans would have to keep records under ERISA section 107 to verify that they are in fact a pension plan or arrangement using a tax deferred annuity arrangement under Code section 403(b)(1) and/or a custodial account for regulated investment company stock under Code section 403(b)(7) as the sole funding vehicle for providing pension benefits and would have a general fiduciary obligation to keep records adequate to ensure compliance with the fiduciary and other substantive requirements in Title I of ERISA.

the end of the parenthetical definition for Line 30 on the Schedule SB. The Agencies concluded that this change is not necessary. Guidance regarding Line 30 will be included in the instructions.

This commenter noted that the definitions for Lines 7 and 8 refer to Lines 13 and 35 from the prior year, but that these definitions will not be valid for 2008 unless the 2007 Schedule B is changed to include Lines 13 and 35 as defined in the 2008 Schedule SB. The Agencies note that Lines 13 and 35 will not be included on the 2007 Schedule B. The Schedule SB was designed to reflect various PPA reporting and disclosure provisions (generally effective for 2008 and subsequent years). Information on ''look back'' rules applicable for completing the questions on the Schedule SB will be included in the instructions.

5. Schedule C (Service Provider Information)

The Department believes that an annual review of plan fees and expenses as part of the annual reporting process is part of a plan fiduciary's on-going obligation to monitor service provider arrangements with the plan. Commenters generally supported the goals of the proposed changes to the Schedule C, as stated in the proposal, of increasing transparency regarding fees and expenses paid by employee benefit plans and ensuring that plan officials obtain the information they need to assess the compensation paid for services rendered to the plan, taking into account revenue-sharing arrangements among plan service providers and potential conflicts of interests.

Commenters representing insurance companies, banks, and other financial institutions, however, while generally supporting fee transparency and applauding the Department's initiatives in this area, raised concerns that the proposed Schedule C reporting scheme for indirect compensation was more extensive than necessary. They asserted that the proposed changes could result in duplicative, misleading, and confusing reporting. The commenters also argued that the proposed changes, if not narrowed, would impose significant administrative costs on service providers to track and disclose information on indirect compensation, which costs they likely would pass on to their employee benefit plan clients. These commenters suggested that reporting of indirect compensation, as proposed, should be narrowed in various ways: (1) Eliminate or narrow reporting of ''float'' income; (2) postpone any requirement to report ''soft dollars'' until after the Securities and Exchange Commission (SEC), as the primary regulator of soft dollar compensation, addresses the subject as it applies to investors generally; (3) except from reporting revenue sharing payments among affiliates and by other bundled service providers to entities that the bundled provider engages to provide services; (4) retain the current rules under which brokerage commissions are not required to be reported unless the broker is granted some discretion; (5) define ''service providers'' required to be listed in the Schedule C as limited to persons with direct service relationships with the plan and exclude from Schedule C reporting payments to ''subcontractors'' based on the premise that subcontractors are merely assisting the direct service provider in fulfilling its contractual obligations and are not providing services to the plan; (6) confirm that insurers and investment providers are not required to be listed as service providers on Schedule C solely as a result of the plan's purchase of the insurance contract or investment with the investment provider; and (7) integrate the annual reporting requirement into other regulatory disclosure requirements regarding fee and expense disclosure to avoid duplicative and confusing disclosure requirements.

Two individual commenters suggested that the Schedule C should be completed by small plans as well as large plans and that the $5,000 reporting threshold for listing a service provider on the Schedule C should be lowered or eliminated. Another commenter suggested that, if full Schedule C reporting was not expanded to small plans, investment-related fees and expenses should be reported separately in a similar manner as administrative service provider expenses under the July 2006 Proposal which called for administrative service provider expenses paid by the plan to be reported as an aggregate line item on Schedule I and the Short Form.

As noted in the July 2006 Proposal, issues relating to the appropriate manner and scope of the reporting of service provider compensation on the Schedule C have been raised by the ERISA Advisory Council and the Government Accountability Office, as well as by Form 5500 Annual Return/Report filers and plan service providers. The Department is working on a separate regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for services. *See* 72 FR 22845. That regulation is intended to eliminate the current uncertainty as to the information relating to services and fees that plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable. Another rulemaking initiative on the Department's regulatory agenda involves review of participant-level disclosure, including the regulation governing ERISA section 404(c) plans (29 CFR 2550.404c–1), to ensure that participants and beneficiaries in individual account plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. *Id.* Other federal agencies, for example the SEC, are also focusing on efforts to give investors, including employee benefit plans, better information about the actual amount they have paid investment fund managers during a given period.

Against this backdrop, and inasmuch as plan administrative costs are being passed on to plan participants with increasing frequency, it is critical to ensure that the benefits of any new annual reporting requirement outweigh the attendant compliance costs—costs that may ultimately reduce retirement savings. The Schedule C requirements historically have been limited to large plans that are required to file the Form 5500 Annual Return/Report and have not covered the broader class of plans covered by the Department's other fee transparency initiatives. Considered in context with other fee disclosure initiatives at the Department and elsewhere that are more tailored to the concerns expressed by GAO and the ERISA Advisory Council on changes needed to provide 401(k) plan participants better information on fees, particularly investment fees indirectly incurred by participants directing the investment of assets in their individual 401(k) plan accounts, the Department does not believe expanding the Schedule C annual reporting requirements to small pension plans would be consistent with the direction from Congress in the PPA for the Department to simplify the annual report for plans sponsored by small businesses.

The Department continues to believe that it is appropriate to modify the Schedule C reporting requirements for large plans in an effort both to clarify the reporting requirements and to ensure that the Form 5500 Annual Return/Report serves a role in helping plan officials obtain the information they need to assess the reasonableness

of the compensation paid for services rendered to the plan, taking into account revenue sharing and other financial relationships or arrangements and potential conflicts of interest that might affect the quality of those services. After having carefully reviewed the public comments on the Schedule C proposal, the Schedule C is being adopted largely as proposed, but some revisions are being made to the proposed requirements. The changes are intended to reduce the administrative burdens on plans and plan service providers and clarify the reporting requirements without compromising the proposal's overall objectives.

a. Indirect Compensation Reporting on Schedule C

Reportable compensation under the final Schedule C revisions continues to be defined to include money and any other thing of value (for example, gifts, awards, trips) received directly or indirectly from the plan (including fees charged as a percentage of assets and deducted from investment returns) for services rendered to the plan. The Department does not agree with the commenters who argued that only those persons with ''direct service relationships'' with the plan should be treated as providing services to the plan for Schedule C reporting purposes. The Department believes that such a conclusion would be inconsistent even with the current reporting requirements in the Schedule C. Under current reporting rules, reportable indirect compensation expressly includes ''among other things, payment of 'finder's fees' or other fees and commissions by a service provider to an independent agent or employee for a transaction or service involving the plan.'' Nothing in the proposal was intended to restrict or diminish the existing requirement to report such finders' fees or commissions. Rather, the proposal was designed to expand indirect compensation reporting requirements. The Department also believes that adopting the commenters' suggestion would undermine the objective of improving disclosure of fee and compensation information because it is not consistent with the reality of the employee benefit plan marketplace where the nature and complexity of the business and investment environment in which plans operate has changed the ways in which plans obtain and pay for administrative, investment, and other services. Although the Department agrees that an investment of plan assets or the purchase of insurance is not, in and of itself, reportable service provider compensation for purposes of the Schedule C, in the Department's view, persons that provide investment management, recordkeeping, participant communication, and other services to the plan as part of a transaction with the plan should be treated as providing services to the plan or its participants for purposes of Schedule C reporting. Thus, under the final Schedule C revisions, and subject to the alternative reporting option described below, such persons would be required to be identified in Part I if they received, directly or indirectly, $5000 or more in reportable compensation for a transaction or service involving the plan.

Several commenters suggested that a payment be reportable on Schedule C only if either the service provider's eligibility for the payment or the amount of the payment is based on a transaction directly involving assets of the plan. The commenters argued that such a test would be consistent with conflict of interest rule in ERISA section 406(b)(3), which prohibits receipts by plan fiduciaries of consideration for their own personal account from any party dealing with a plan ''in connection with'' transactions involving plan assets. The Department does not agree that the standard for Schedule C reporting should be narrowed to parallel the prohibited transaction standard in ERISA section 406(b)(3). Unlike the prohibited transaction provision in 406(b)(3), the Schedule C revisions were not intended to be limited to receipts by plan fiduciaries or to identifying impermissible conflicts of interest. The Schedule C reporting of indirect compensation also is not limited to only those circumstances where a plan fiduciary affirmatively chooses the indirect service providers. Rather, one of the goals of the Schedule C changes is to improve fee disclosure to plan fiduciaries, especially where they do not have a role in determining the compensation paid to parties that are receiving fees for a transaction or service involving the plan. Schedule C reporting arises in part from ERISA section 103(c)(3), which requires information in the annual report regarding ''each person'' (not limited to just fiduciaries) who rendered services to the plan or who had transactions with the plan who received, directly or indirectly, compensation from the plan during the year for services rendered to the plan or its participants. Further, ERISA section 103(c)(5) expressly provides that the administrator shall furnish as part of the annual report ''[s]uch financial and actuarial information'' as the ''Secretary may find necessary or appropriate.'' In the Department's view, the prohibited transaction standard in ERISA section 406(a)(1)(C)—transactions that constitute a ''direct or indirect'' furnishing of goods, services, or facilities to the plan—is generally a more suitable analog for Schedule C reporting. Thus, in the Department's view, the Schedule C reporting requirement should generally capture both persons who receive direct or indirect compensation and persons who provide services directly or indirectly to the plan.

The Department nonetheless agrees that additional guidance on certain areas of concern raised by commenters would establish useful compliance guides for plan administrators and plan service providers.

As was noted in the July 2006 Proposal, Schedule C was intended to capture information on compensation received by persons providing services, and not information on benefit payments to participants and beneficiaries. Where fully insured group health benefits, or similarly fully insured benefits under a plan, are purchased from and guaranteed by a licensed insurance company, insurance service, or other similar organization, and where information regarding that contract is reported on the Schedule A, compensation paid by the insurance company from its general assets to affiliates or third parties for administrative activities necessary for the insurer to satisfy its contractual obligation to provide benefits is not required to be treated as reportable service provider compensation for purposes of the Schedule C. Insurance investment contracts are not eligible for this exception. As described below in the discussion of the Schedule A (Insurance Information), a similar exclusion is being adopted in defining the scope of insurance fees and commissions that must be separately reported on the Schedule A. In determining whether such compensation is excludable from the Schedule C, the Department would look to whether the administrative services are necessary for the insurer to satisfy its contractual obligation to provide benefits under the plan and are not services incidental to the sale or renewal of a policy, whether payments by the insurer are out of its general assets to third parties without any other direct or indirect charge to the plan other than the policy premium, are made pursuant to a contract or written understanding to provide the services, and whether the amount of the compensation paid by the insurer is

reasonable in light of the value of the services provided.

Under the proposal, Schedule C reportable compensation included brokerage commissions and fees directly or indirectly charged to the plan on purchase, sale, and exchange transactions regardless of whether the broker is granted discretion. Commenters urged retaining the current limitation under which such compensation is reported on the Schedule C only for brokers granted discretion. The Department continues to believe that brokerage fees and commissions may constitute a significant part of a plan's annual expenses and that continuing the current exemption from the Schedule C reporting for such expenses is not appropriate. A review of expenses as part of the annual reporting process is part of a plan fiduciary's on-going obligation to monitor service provider arrangements with the plan. Requiring the reporting of such brokerage commissions and fees should emphasize and reinforce that monitoring obligation. The Department understands that information on brokerage fees and commissions may be provided to the plan by parties other than the broker receiving the fee or commission. For example, a number of commenters indicated that in many cases the broker will not know the party on whose behalf a brokerage transaction is being executed because the instructions to execute trades are often provided by investment managers who control investment portfolios for multiple ERISA plans, non-ERISA plans, and non-plan clients. The commenters asserted that it may be very difficult for the broker to identify fees and commissions it receives from ERISA plan transactions, much less identify fees and commissions it receives on transactions involving a particular ERISA plan. The Department notes that the plan administrator is the party with the obligation to complete the Schedule C. Further, the Schedule C does not require that information on reportable fees and commissions necessarily be furnished to the administrator by the party receiving the fee or commission. Rather, in the situation described by the commenters, the investment manager should have information on which transactions are being executed for which clients and should have information on the fees and commissions it is being charged for those transactions. In such a case, the investment manager, rather than the broker, may be the appropriate party to provide the plan administrator with information on those service provider fees and commissions.

Many of the comments raising concerns about the difficulties and burdens of reporting indirect compensation focused on ''float'' revenue; [9] securities brokerage commissions (including soft dollar commissions[10]); and service fees charged against plan investments and reflected in the net value of the plan's investment in mutual funds, bank investment funds, and insurance company investment contracts. According to the GAO, *see, e.g.*, ''Private Pensions: Changes Needed To Provide 401(k) Plan Participants and the Department of Labor Better Information on Fees'' (GAO 07–21, Nov. 2006), these investment-related fees indirectly paid by plans and plan participants account for the largest portion of total plan fees regardless of plan size. Services provided for these fees can include investment management (e.g., selecting and managing the securities included in a mutual fund); consulting and providing financial advice (recommending vendors for investment options or other services); custodial or trustee services for plan assets; and shareholder services (such as telephone or web-based customer services for participants). Record-keeping fees were identified as generally constituting the second-largest portion of these indirect fees. Record-keeping fees are usually paid to a service provider to set up and maintain the plan. These fees cover activities such as enrolling plan participants, processing participant investment selections, preparing and mailing account statements, and other related administrative activities.

The commenters indicated that the burden and complexity of reporting investment-related fees is due in large part to the fact that a substantial majority of retirement plan service providers maintain plan records and investment information at an omnibus account level. Certain commenters described omnibus accounting as ''best practice'' in the industry. They suggested that efficiencies in data exchanges and settlement transactions between funds and retirement plan record keepers generated by omnibus accounting are used to reduce plan service costs. These savings were described as based in part upon the service provider maintaining omnibus trading accounts with investment-related service compensation based upon a percentage of the total assets in an investment fund. A commenter representing the mutual fund industry asserted that it would be extremely difficult to parse out by plan (in dollars) specific components of a fund's expenses for purposes of Form 5500 reporting. The commenter suggested that the data systems overhaul that would be needed to track this information would be prohibitively expensive. Other commenters suggested that, although it may be possible with current data systems to generate an estimate of the amount of investment-related fees reflected in the periodic net asset valuation of a plan's investment on a case-by-case basis, systematically performing such a task each year for each investing plan would be difficult given the variation in omnibus account investment fees and the pervasiveness of their use as a means of compensating service providers for an array of investment-related services.

In a similar vein, several commenters expressed concern about the Schedule C reporting requirements in the case of revenue sharing among members of a bundled service arrangement (including, in particular, revenue sharing among affiliates from investment-related fees charged at the omnibus account level). The commenters explained that bundled service arrangements include arrangements where the plan hires one company to provide, either directly or through affiliated entities or unaffiliated subcontractors, an array of services rather than purchasing the services on an individual basis. In some typical arrangements, a bundle of services is included as part of an investment transaction and the service providers are paid out of investment management and other charges levied on an investment fund comprised of many ERISA plans, other plans, and, in some cases, non-plan investors. Several commenters asked that the final Schedule C revisions confirm that payments received in such a bundled arrangement by a service provider from an affiliate not be separately reportable on Schedule C. The commenters argued

[9] Financial service providers (e.g., banks and trust companies) sometimes place ERISA plan assets in a general account for short periods of time in order to facilitate certain transactions, such as while waiting for investment instructions from the plan's fiduciaries or in order to make a distribution or other disbursement. The period that begins when the plan money is deposited in the general account, and ends when the investment instructions are executed or the disbursement check clears, is known as the ''float.'' During this float period, the money often is invested in conservative, short-term investments. In some cases, the ERISA plan is credited with the earnings on these investments. In others, the financial service provider keeps the earnings as part of its compensation.

[10] Soft dollars include research or other products or services, other than execution, received from a broker-dealer or other third party in connection with securities transactions.

that separate reporting was not necessary to identify possible conflicts of interest because the self-interest such a service provider has in its affiliate should be readily apparent to the plan fiduciary evaluating an investment in the bundled arrangement or any advice or recommendation by that service provider relating to its affiliate. The commenters also argued that separate disclosures on revenue sharing among affiliates are not necessary where the total compensation received by the affiliated group is to be reported. The commenters argued that allocation of revenues among affiliates may not be based on the value of services provided by the respective affiliates to investing plans, but instead may be driven by tax accounting, cash flow or other internal business purposes of the affiliate group. They also argued that, although they could attempt to allocate a cost to each service in the bundled, the annual report does not in other cases require service providers to report their cost, as opposed to the charges paid by the plan. The commenters also argued that reporting revenue sharing among affiliates would create a confusing distinction between entities that provide services using employees in multiple divisions of one company and entities that use several separate subsidiaries to provide the services. One of the commenters suggested that if multiple affiliates within an organizational group provided services to a plan, it should be sufficient to identify in Part I of Schedule C the organization together with its participating affiliates and report compensation on an aggregate basis.

Other commenters representing ''unbundled'' or ''open architecture'' investment providers asserted that allowing aggregate reporting for bundled/affiliated providers, without having a parallel rule for unbundled providers would generate misleading information for plan administrators. The commenters represented that unbundled investment service arrangements use the same basic omnibus accounting and omnibus account fee arrangements as bundled providers. In the unbundled context, revenue sharing is used to compensate unaffiliated entities providing the same recordkeeping and shareholder services provided by affiliates in a bundled provider arrangement. They pointed out that technological improvements in information management systems and data exchange between investment funds and retirement plan record keepers have given unbundled providers the ability to offer cost and fee structures competitive to those of bundled providers. They also argue that unbundled arrangements give plans access to a wider range of unaffiliated investment vehicles than is typically offered by bundled providers.

Representatives of the ''unbundled'' service providers claim that, just like the bundled providers, the parties providing sales, recordkeeping, participant communication, and other services are often paid indirectly from charges levied against the investment funds in which the plan accounts are invested. They read the Schedule C proposal as requiring, in the case of bundled providers, reporting of a single sum equal to the total compensation, including investment management and other asset-based fees, paid by the plan without reporting the allocation of those charges to affiliated service providers in the bundle. In comparison, they read the proposal to require that the plan report, in the ''unbundled'' structure, both the total investment management and other asset-based fees as well as report allocations from those fees to the unaffiliated service providers. The commenters suggested, therefore, that, although an unbundled arrangement may provide the same services as a bundled arrangement and the various service providers may be paid out of the same investment management and omnibus asset-based charges as in a bundled arrangement, the Schedule C reporting could make it appear as if the unbundled arrangement included more fees.

The Department has decided to revise the Schedule C reporting requirement in an effort to address both the concerns regarding the burden and expense of reporting plan specific components of omnibus asset-based charges and concerns over disparate reporting treatment of affiliated service provider groups and unaffiliated providers using essentially the same indirect compensation arrangements. In that regard, the Department notes that even commenters generally supporting the Schedule C proposal urged the Department to provide flexibility, consistent with the spirit of the proposed Schedule C changes, in defining acceptable methods of reporting fee and expense information and allocating the fees and expenses for specific service provider compensation to individual plans.

Thus, the final Schedule C revisions include a new definition of what would constitute a bundled arrangement for Schedule C reporting purposes. In the case of such bundled arrangements, although revenue sharing within the bundled group generally does not need to be separately reported, the person or persons in the bundle receiving separate fees charged against the plan's investment (e.g., investment management fees, float revenue, and other asset-based fees such as shareholder servicing fees, 12b–1 fees, and wrap fees if charged in addition to the investment management fee) must, subject to the alternative reporting option described below, be treated as receiving separate reportable compensation for Schedule C purposes. Also, and subject to the alternative reporting option described below, any person in the bundle who is a fiduciary to the plan or provides one or more of the following services to the plan contract administrator, consulting, investment advisory (plan or participants), investment management, securities brokerage, or recordkeeping—receiving amounts as commissions (including finders' fees), soft dollars or other nonmonetary compensation, float revenue, or transaction-based charges (e.g., brokerage commissions) must be separately reported on the Schedule C if their total reportable compensation equals or exceeds $5,000. The Department believes that having to disclose the receipt of separate fees actually charged against the plan's investment would not require service providers to disclose information legitimately classified as proprietary or confidential. Further, in the case of commissions, soft dollars, finders' fees, float revenue, and transaction-based charges paid to affiliates, the Department believes such charges are just as likely for both affiliate groups and unaffiliated providers to be relevant to the plan fiduciary in evaluating possible conflicts of interest.

Except as described above, the Department continues to believe that it is generally sufficient for Schedule C reporting purposes to treat an affiliate group as a single person and identify that affiliate group in Part I of the Schedule C as the party receiving compensation from the plan for rendering services to the plan. The Department emphasizes, however, that if one or more of the affiliates or a member of a bundled arrangement received compensation from sources outside the affiliate group or bundled arrangement in connection with the investment transaction with the plan or services provided to the plan, that compensation also would have to be included as part of the reportable compensation received in determining Schedule C reporting requirements.

For purposes of this Schedule C reporting rule, an ''affiliate'' of a person includes any person, directly or

indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. The instructions for the Schedule C have been revised to provide that ''control,'' with respect to a person other than an individual, means the ability to exercise a controlling influence over the management or policies of such person.

In attempting to strike a balance between the costs and benefits of improved disclosure of investment-related fees and expenses, the Department believes some of the concerns regarding the burden and complexity of allocating fees charged in an omnibus account structure can be addressed by further modifying the Schedule C requirements so they rely on disclosures regarding those fees resulting from other regulations or business practices to the extent those disclosures meet the objectives underlying the Department's Schedule C proposal. The final Schedule C revisions thus include an alternative reporting option for ''eligible indirect compensation.'' To constitute eligible indirect compensation for this purpose, the compensation has to be of a certain type and the plan must have received certain disclosures. The eligible compensation types are compensation not paid directly by the plan or plan sponsor but received by plan service providers from omnibus level fees charged to investment funds in which the plan invests where the charges are reflected in the value of the investment or return on investment of the participating plan or its participants and for: distribution, investment management, recordkeeping or shareholder services; commissions and finder's fees paid to persons providing direct or indirect services to the participating plans; float revenue; securities brokerage commissions and other transaction-based fees (whether or not they are capitalized as investment costs); and ''soft dollar'' revenue. For the alternative reporting option to be available, in addition to being within that class of investment fees, the plan administrator must also be furnished written materials, including in electronic form, that disclose the existence of the indirect compensation; the services provided for the indirect compensation or the purpose or purposes for the payment of the indirect compensation; the amount (or estimate) of the compensation or a description of the formula used to calculate or determine the compensation; and the identity of the party or parties paying and receiving the compensation. The Department believes that any written disclosure, whether regulatory, contractual, or voluntary, could be relied upon so long as all of the elements of the disclosure were provided to the plan administrator. Further, the necessary information could be provided to the plan administrator in separate disclosures from multiple parties.

In the case of service providers who received only eligible indirect compensation, the plan administrator would be able to check a box on the Schedule C to indicate that there were such service providers and that the plan had received the appropriate disclosures, and then identify on the Schedule C each person from whom the plan administrator received the necessary disclosures regarding the eligible indirect compensation. For example, 12b–1 fees received by a party providing recordkeeping services to a plan would not have to be separately reported on the Schedule C if the disclosures in the mutual fund prospectus together with disclosures in the service contract advised the plan administrator of the fact that the 12b–1 fees were being received, what the fees were paid for, the amount or estimate of the fees received or the formula used to calculate the amount of the fees received, and the party from whom the recordkeeper was receiving the fees. Similarly, ''soft dollars'' received by an investment manager in the form of research or other permissible services in connection with securities trades on behalf of plan clients need not be separately reported on the Schedule C if disclosures in the SEC Form ADV, together with disclosures in the investment management contract, advised the plan administrator that the manager is receiving ''soft dollars,'' the reason the person was receiving the ''soft dollar'' payment, the amount of ''soft dollars'' or the formula used to determine the amount of ''soft dollars'' that the manager receives in connection with each securities transaction, and the party or parties from whom the investment manager is receiving the ''soft dollars.'' The Department recognizes that it may not be practicable to provide a formula or estimate to calculate the value of certain types of ''soft dollar'' non-monetary compensation at the plan level, particularly so-called ''proprietary'' soft dollar arrangements, such as access to information from certain research specialists. In such circumstances, a description of the eligibility conditions sufficient to allow a plan fiduciary to evaluate them for reasonableness and potential conflicts of interests would satisfy the ''amount of compensation'' prong of the disclosure alternative for Schedule C reporting. When reporting service providers who received eligible indirect compensation and other compensation, the service provider would be required to be separately listed on the Schedule C if the total compensation equaled or exceeded the $5,000 threshold. The plan administrator would check a box to indicate that some of the compensation was eligible indirect compensation and complete the other elements of the Schedule C to report information on the balance of the direct and indirect compensation received by the service provider. Since the identity of the service provider would be included on the Schedule C in such cases, separately listing the person from whom the plan received the required disclosures regarding the eligible indirect compensation would not be necessary.

The Department has previously expressed its opinion that in hiring and retaining service providers plan fiduciaries must engage in an objective process designed to elicit information necessary to assess the qualifications of the provider, the quality of services offered, and the reasonableness of the fees charged in light of the services provided. In addition, the process should be designed to avoid self-dealing, conflicts of interest, or other improper influence. The alternative reporting option being adopted as part of the Schedule C revisions for eligible indirect compensation is intended to emphasize and reinforce the obligation to review of plan expenses as part of a plan fiduciary's on-going obligation to monitor service provider arrangements. It also provides the Department with adequate reporting to engage in effective oversight activities while addressing concerns about annual reporting burdens and costs, which are increasingly being passed on to plan participants and beneficiaries. A party seeking to avail itself of the alternative reporting option would also bear the burden of maintaining records sufficient to demonstrate compliance with the conditions of the alternative reporting option.

Several commenters asked that the Department modify the proposed Schedule C requirement applicable to plan fiduciaries and certain enumerated service providers who received, directly or indirectly, $5,000 or more in total compensation, and also received more than $1,000 in reportable compensation from a person other than the plan or plan sponsor. Under the proposal, the Schedule C would have had to provide

information identifying the payor of such indirect compensation, the payor's relationship with the plan or services provided to the plan by the payor, the amount paid, and the nature of the compensation. The enumerated service providers were contract administrator, securities brokerage (stock, bonds, commodities), insurance brokerage or agent, custodial, consulting, investment advisory (plan or participants), investment or money management, recordkeeping, trustee, appraisal, or investment evaluation. The commenters expressed concern that the list of enumerated service providers was overbroad because it included most types of plan service providers, including those where compensation arrangements did not present any real conflict of interest concerns. The commenters also objected because the reporting requirement substantially reduced the costs savings and burden reductions of the aggregate reporting of compensation by affiliates and bundled service providers. In light of the other revisions being made to the reporting requirements for bundled service arrangements described above, the Department is revising the Schedule C instructions to limit the enumerated service provider list to types of providers where compensation arrangements presenting conflict of interest concerns are most likely to exist.

Modifications were also suggested to the aspect of the Schedule C proposal that required reporting business meals, gifts, promotional items, and other similar non-monetary forms of compensation. Commenters complained that the proposal would require costly tracking and reporting by plan service providers of typical business expenses only remotely connected to the plans. One commenter cited, as an example, the need to track and report when an employee of a plan service provider is treated to a business lunch by another service vendor to discuss the services the vendor provides to the service provider's plan clients. The commenter questioned whether the cost of such tracking and potential reporting, which ultimately could be passed on to the plan or the plan sponsor, is justified based on value to plan fiduciaries evaluating the reasonableness of service provider fees. The Department recognizes that providing meals, entertainment, free travel, or other gratuities may serve an ordinary business purpose, such as cultivating goodwill or securing or maintaining a commercial relationship, but continues to believe that non-monetary compensation should be subject to Schedule C reporting rules. Access to this information should help plan fiduciaries gauge whether the service provider's business decisions with regard to the plan may be influenced by any such personal benefits. At the same time, excepting from reporting occasional and insubstantial free meals, gifts, and promotional items will help to ensure that service providers are not burdened with reporting routine business gratuities that should be of little interest to plan fiduciaries.

The Department thus has modified the Schedule C reporting requirements to exclude ordinary business gifts that are both occasional and of insubstantial value, for example, widely distributed items such as pens with a company name permanently imprinted or ordinary business lunches, where the cost of the gift or meal would be tax deductible for federal income tax purposes for the person providing the gift or meal and the gift or meal would not be taxable income to the recipient. For this exemption to apply, the gift must be valued at less than $50, and the aggregate value of gifts from one source in a calendar year must be less than $100, but gifts with a value of less than $10 do not need to be counted toward the $100 annual limit. If the $100 aggregate value limit is exceeded, the aggregate value of all the gifts will be reportable. Gifts from multiple employees of one service provider should be treated as originating from a single source when calculating whether the $100 threshold applies. On the other hand, in applying the threshold to an occasional gift received from one source by multiple employees of a single service provider, the amount received by each employee should be separately determined in applying the $50 and $100 thresholds. For example, if six employees of a company providing administrative services to employee benefit plans attend a business conference put on by a broker designed to educate and explain the broker's employee benefit business services, where refreshments valued at $20 per individual are provided at no cost to the employees, the gratuities would not be reportable on the Schedule C even though the total cost of the refreshments would be $120. The Schedule C instructions have also been revised to emphasize that these thresholds are for purposes of Schedule C reporting only and to caution filers that the payment or receipt of gifts and gratuities of any amount by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Commenters also expressed concern that the Schedule C reporting rule allowing any reasonable method of allocating indirect compensation among multiple plans as long as the method is disclosed to the plan administrator would result in confusion for plan officials because service providers will not necessarily be using consistent methods in allocating indirect compensation. The diversity in the form and manner of payment of indirect compensation described in the comments, however, defied applying a single allocation method for such compensation among multiple plans. Thus, in circumstances where the amount of indirect compensation received by a person is attributable to more than one plan, allowing any reasonable allocation method but also requiring the method of allocation to be disclosed to the plan administrator provides the parties with appropriate flexibility in meeting the annual reporting requirement while ensuring the plan administrator is properly informed.

Several commenters raised concerns about the proposed indirect compensation reporting requirements as possibly leading to confusion among plan officials over ''double reporting'' of service provider compensation. They cited as an example of such ''double reporting'' situations where an investment advisor is paid an investment management fee from a mutual fund, and the investment advisor uses some of that revenue to pay fees to brokers, pension consultants, and others for marketing and distribution expenses. The commenters were concerned that if the investment management fee received by the investment manager and the fee received by a broker, for example, are both required to be reported as indirect compensation on the Schedule C, plan officials could incorrectly conclude that the plan paid the broker's fee in addition to the investment management fee. The Department believes that the modifications to the form and instructions described above, including the alternative reporting option for eligible indirect compensation, should address this concern by giving service providers flexibility that will allow them to provide plans with disclosures that can be used to satisfy the Schedule C reporting requirements while also clearly explaining the indirect compensation in a way that will enable the service providers to avoid creating confusion about the indirect fees and compensation they receive.

The Schedule C is also being modified so that service providers required to be

listed would separately report direct compensation paid by the plan and indirect compensation received from sources other than the plan or the plan sponsor, for example, compensation charged against investment assets. In addition, in light of the fact that particular service providers may receive direct and indirect compensation of various types from various sources, in order to provide more informative disclosures about the types of fees being paid to or received by plan service providers, the final forms revisions expand the service codes currently required on the Schedule C, which identify the types of services provided, to include fee codes designed to better identify the types of direct and indirect compensation received. For example, codes were added for direct payments by the plan out of a plan account, including charges to plan forfeiture accounts and fee recapture accounts, charges to a plan's trust account before allocations are made to individual participant accounts, and direct charges to plan participant individual accounts (e.g., loan charges, brokerage account service fee, distribution service charge). Codes for types of indirect compensation include common investment fees indirectly paid by plans and participants, such as sales loads (including charges on purchases and deferred sales charge); redemption fees; purchase fees paid to the fund (not to a broker); exchange fees charged to an investor when they exchange (transfer) to another fund within the same fund group; account maintenance fees; investment management fees paid out of fund assets to the fund's investment adviser for investment portfolio management; distribution and service (12b–1) fees; shareholder service fees; custodial fees; legal expenses; accounting fees; and transfer agent expenses. The fee codes should provide plan sponsors, participants and beneficiaries, and the Department with better information on the types of compensation being paid directly or indirectly by the plan.

The Department believes that this revised framework for the Schedule C continues to accomplish the objectives of improving Schedule C reporting of fee and compensation information, while addressing many of the concerns of the commenters relating to annual reporting burdens, costs, and potentially duplicative and confusing disclosures to plan officials. It also provides sufficient flexibility so that plans and service providers can use other current or future regulatory disclosure regimes, such as soft dollar disclosure requirements developed by the SEC, as part of satisfying ERISA's annual reporting requirements.

b. Miscellaneous Schedule C Issues

One commenter asked the Department to confirm that revenue sharing payments, such as sales loads and 12b–1 fees received from the mutual funds and other revenue sharing payments from distributors and/or advisors of the mutual fund for sub-transfer agency services and shareholder services, are not necessarily ''plan assets'' for purposes of the fiduciary responsibility provisions of Title I of ERISA solely by virtue of being required to be listed on the Schedule C. The commenter pointed out that some revenue sharing payments to plan service providers are calculated based on the amount of assets a plan or a group of plans have invested in a particular investment vehicle or family of vehicles at a given time. Other revenue sharing payments are not asset-based, but may involve a flat fee. In the Department's view, the Schedule C reporting requirements are not restricted to plan asset payments. In general, in evaluating plan investments, identification of plan assets is governed either by the ''plan asset'' regulation (29 CFR 2510.3–101), or, in situations beyond the regulations, the assets of an employee benefit plan are identified on the basis of ordinary notions of property rights. *See, e.g.,* Advisory Opinion 2005–22A. In the context of a plan's investment in a mutual fund or other investment vehicle, the plan's beneficial interest generally is its ownership of shares, units, or an undivided interest in the underlying assets of the vehicle. The fact that revenue sharing payments charged against the assets in an investment vehicle are required to be reported on Schedule C or disclosed under the alternative reporting option would not, by virtue of the reporting requirement alone, make those revenue sharing payments plan assets under the plan asset regulation or under ordinary notions of property rights.

One commenter suggested that revising the instructions to Schedule C to clarify that health and welfare plans exempt from the financial reporting and audit requirements by reason of meeting the conditions in the Department's limited exemption in 29 CFR 2520.104–44, including plans that rely on the enforcement policy guidance in the Department's Technical Release 92–01, are not required to file a Schedule C. The Department has modified the instructions for the Schedule C to make it clear that, although neither the limited exemption at 2520.104–44 nor Technical Release 92–01 expressly address Schedule C reporting requirements, plans that meet the conditions of the exemption or the enforcement policy guidance are not required to complete and file a Schedule C to report information on service provider compensation. Another commenter requested confirmation that where the plan sponsor pays expenses of the plan, the amounts paid by the plan sponsor, and not reimbursed by the plan, would not have to be reported on Schedule C. The Schedule C and its instructions continue to provide that reporting is only required for amounts directly or indirectly paid by or received from the plan.

Several commenters expressed concern with the statement in the July 2006 Proposal that if reportable compensation is due to a person's position with or services rendered to more than one plan, the total amount of compensation received should be reported on the Schedule C of each plan if the compensation could not reasonably be allocated among the various separate plans. The commenters' concern focused on an example in the preamble to the July 2006 Proposal involving a $1,000 gift from a securities broker to an investment adviser given because of the investment adviser's relationship with ERISA plans as potential clients for the securities broker. The preamble assumed the $1,000 gift could not be reasonably allocated among the ERISA plans and indicated that in such a case the $1,000 should be reported on the Schedule C of all plans for which the investment advisor performed services. The commenters urged clarifying in the instructions that, as long as a reasonable allocation can be made in such circumstances, the total value of the gift or other consideration is not required to be reported on the Schedule C of each plan. The Department agrees that in the case of gifts or other consideration attributable to multiple plans, only an allocable share of value of the gift or other consideration needs to be included on each plan's Schedule C as long as the value of the gift or other consideration can be reasonably allocated among the multiple plans.

Commenters also expressed concerns, similar to those submitted by insurers on the Schedule A described below, regarding the requirement to identify service providers that fail or refuse to provide the administrator with the information needed to complete the Schedule C. The Department continues to believe that identifying service providers that fail to provide information needed to complete the

Schedule C is important information that will allow the Department to better carry out its responsibilities to administer and enforce the provisions of Title I of ERISA. As noted below in connection with the similar question being added to the Schedule A, the instructions for the Schedule C have been changed to remind plan administrators that they have an obligation to take reasonable and prudent steps to secure the necessary Schedule C information and that administrators generally should contact the service providers and make a request for Schedule C information before identifying a service provider on the Schedule C as having failed or refused to provide necessary information.

One commenter requested confirmation that the proposed changes regarding reporting of indirect compensation did not require service provider compensation reported on a Schedule C filed for a master trust investment account (MTIA) or 29 CFR 2520.103–12 investment entity (103–12IE) also to be reported on the participating plans' Schedule Cs. The indirect compensation reporting requirements were not intended to change the rule in the current instructions to the Schedule C, which emphasizes that compensation to a service provider should not be reported both on the Schedule C for the plan and on the Schedule C for the MTIA or 103–12IE in which the plan participates. Rather, plan filers must include the plan's share of compensation paid during the year to an MTIA trustee or other person providing services to the MTIA or 103–12IE only if such compensation is not subtracted from the total income of the MTIA or 103–12IE in determining the net income (loss) reported on the MTIA or 103–12IE's Schedule H, Line 2k, or is not reported on the MTIA's or 103–12IE's Schedule C.

Two commenters urged the Department not to eliminate the provision in the current Schedule C under which only the ''top 40'' highest compensated service providers are required to be listed on the Schedule C reporting, as proposed. The commenters suggested that the ''top 40'' limit be retained or replaced with some other limit based on a larger number of service providers or requiring service providers to be listed when their compensation exceeded a specified percentage of total plan expenses. The commenters suggested that, for a very large plan, requiring all service providers that received $5,000 or more in direct or indirect compensation could require the plan to list hundreds of service providers and substantially complicate their Form 5500 Annual Return/Reports. A review of Form 5500 Annual Return/Report data for reports filed before the ''top 40'' limit was adopted in the 1999 Form 5500 Annual Return/Report indicates that only a few very large plans reported 40 or more service providers on the Schedule C. A review of more recent Schedule C data also reflects that the 40th highest paid service provider generally was paid as much or nearly as much as the 15th or 20th highest paid service provider even though the Schedule C requires service providers to be reported in descending order of amount of compensation. Based on these data, the Department does not believe continuing the ''top 40'' limit is appropriate.

One commenter suggested that clarifying the reporting year in which termination of an accountant or an enrolled actuary must be reported on Schedule C. Although not expressing a preference for either result, the commenter indicated that it was not clear whether the termination should be reported on the form filed for the year in which the accountant was terminated or on the form filed for the year in which a new accountant performed the plan audit. The instructions have been revised in response to the comment to state more explicitly the existing rule that the termination of an accountant or an enrolled actuary must be reported in the Form 5500 Annual Return/Report for the plan year in which the accountant or enrolled actuary was terminated.

6. Schedule A (Insurance Information)

The Agencies received a number of comments in response to the proposed addition of a new section to the Schedule A to identify insurance providers that fail to give plan administrators the information necessary to complete the Schedule A. A commenter representing plan auditors, which supported the change based on the auditors' experience of having difficulty getting information needed to complete plan audits, also requested an expansion of the requirement to cover insurance carriers that did not provide the requisite information in a timely fashion. In contrast, insurance industry commenters expressed concern that the reporting requirement may create unnecessary administrative burdens when plan administrators wrongly identify insurers as having failed to provide required information. One insurance industry commenter, describing testimony before the ERISA Advisory Council on this issue as ''unsubstantiated anecdotal reports,'' objected to the Department's reliance on a report of the ERISA Advisory Council (*see* 71 FR at 41620), as support for adding the new section. Two insurance industry commenters suggested that, if the reporting requirement was retained, plan administrators should be required to advise insurers before identifying the insurer on the Schedule A as having failed to provide required information.

Section 103(a)(2) of ERISA provides that, if some or all of the information necessary to enable the administrator to comply with the requirements of Title I of ERISA is maintained by an insurance carrier or other organization that provides some or all of the benefits under a plan or holds assets of the plan in a separate account, such carrier or other organization is required to transmit and certify the accuracy of such information to the administrator within 120 days after the end of the plan year. Given the importance of plan administrators receiving timely information necessary to complete Schedule A, especially fee and commission information, the recurring reports of difficulties in this area, and the recommendation by the ERISA Advisory Council that such a question be included on the Schedule A to assist plan administrators and the Department in enforcing the insurance carriers' obligations in this regard, the Department continues to believe that insurance providers that fail to provide the necessary information should be identified on Schedule A.

The Department nonetheless agrees that, in addition to the insurer's obligation to provide information, plan administrators have an obligation to take reasonable and prudent steps to secure the necessary Schedule A information. The Department also accepts that there may be instances where plan administrators and insurers disagree over what information is required and other instances where administrators may identify an insurer on the Schedule A based the administrator's erroneous conclusion that the insurer failed to provide required information. The current instructions for the Schedule A that remind filers of the insurer's obligation to provide information needed to complete the Schedule A, accordingly, are being expanded to remind plan administrators that they have an obligation to take reasonable and prudent steps to secure the necessary Schedule A information and that they generally should contact the insurer and make a request for any missing

information before identifying an insurance provider on the Schedule A.

Another commenter requested confirmation that electronic transmission of the required Schedule A information would satisfy the insurer's obligation under ERISA section 103(a)(2). The commenter noted that some plan administrators may believe that insurers are required under ERISA to provide plan administrators with a completed copy of the Schedule A that the administrator could file as part of the plan's annual report. The commenter noted that some insurers had developed such a practice as part of the services they provided to policyholders, but indicated that such practices could be difficult to continue in a wholly electronic filing environment. In the Department's view, nothing in ERISA precludes insurers and plan administrators from agreeing to the insurer's electronic transmission of Schedule A information to the administrator. The Department also anticipates that some software providers will have EFAST2 compatible systems that will enable multiple parties, including insurers, to include information as part of the development of the plan's annual report. The Department also agrees that while insurers are required to provide the information necessary for the plan administrator to complete the Schedule A, insurers are not required by ERISA to provide the information on a completed Schedule A itself.

One commenter suggested that the requirement to report fees, commissions, and other compensation paid to agents, brokers, and other persons in connection with an insurance contract placed with or retained by the plan should be reported on Schedule C instead of on Schedule A. The commenter suggested that such a change would facilitate a ''level playing field'' in the annual reporting area between insurers and banks, investment companies, and other investment product providers. Another commenter suggested that there should be a de minimis reporting exception on the Schedule A under which persons receiving monetary or non-monetary commissions and fees totaling less than $500 would not be required to be listed on the Schedule A. One insurance company commenter complained that the Schedule A approach to the reporting of fees and commissions was unduly burdensome on insurers and service providers and lacked a clearly articulated purpose. The commenter asked that the Agencies limit or clarify Schedule A reporting in several ways: Limit Schedule A fee and commission reporting to ''sales-related'' compensation; exempt from Schedule A reporting payments to a ''general agent or manager'' even if the amounts are paid in connection with a policy placed with or retained by an employee benefit plan; address whether compensation can be reported on a Schedule A for the year in which the compensation was paid rather than for the year in which the right to the payment accrued; confirm that payments are not required to be reported if they are made after the year in which an insurance contract or policy is terminated; and establish safe harbor methods for allocation of compensation attributable to multiple policies.

The July 2006 Proposal did not include any proposed changes to the fee and commission reporting requirements on the Schedule A.[11] The Department issued Advisory Opinion 2005–02A in February 2005 to address a reported pattern and practice among some in the insurance industry of underreporting commission and fee payments to brokers, agents, and other persons. This pattern and practice was reported to be based on incorrect interpretations of the Schedule A, the Schedule A instructions, and other guidance issued by the Department regarding the Schedule A reporting requirements. The Advisory Opinion was intended to explain clearly the Department's views regarding the current Schedule A reporting requirements. After carefully considering the public comments on the Schedule A, the Department does not believe that the comments provide a basis for making major substantive changes to the Schedule A reporting requirements at this time. The Department, however, agrees that two changes adopted as part of the final Schedule C reporting requirements should also be adopted as part of the Schedule A reporting requirements on insurance fees and commissions.

Specifically, the Department previously clarified, as part of an update of the instructions following the publication of Advisory Opinion 2005–02A, that compensation paid by the insurer to third parties for recordkeeping and claims processing services provided to the insurer as part of the insurer's administration of the insurance policy is not required to be reported as fees and commissions on Line 2 of the Schedule A.[12] One commenter complained that the instructions should have been expanded to include other similar types of administrative functions. One insurance organization gave as an example its national accounts programs under which its regional group health insurance programs are able to offer ERISA plans access to medical providers in all fifty states pursuant to agreements with its other regional programs that operate in those states. The Department agrees that where benefits have been purchased from and guaranteed by a licensed insurance company, insurance service, or other similar organization, payments by the insurer from its general assets to affiliates or third parties for performing administrative activities as part of the insurer satisfying its contractual obligation to provide the fully insured benefits under the plan (such as recordkeeping and claims processing services) and where there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, the payments by the insurer to the affiliates or third parties do not need to be reported on Line 2 of Schedule A as ''fees and other commissions.'' In determining whether such compensation is excludable from fee and commission reporting on the Schedule A, the Department would look to whether the services is necessary for the insurer to satisfy its contractual obligation to provide benefits, not services for the insurer incidental to the sale, placement, retention or renewal of a policy, whether payments to third parties are made pursuant to a contract or written understanding to provide the services, and whether the amount of the compensation paid by the insurer is reasonable in light of the value of the services provided. The instructions for the Schedule A have been revised accordingly.

The other Schedule C change that the Department is also adopting as part of the Schedule A fee and commission reporting requirements is the provision excluding occasional and insubstantial non-monetary compensation paid by an insurance company to agents, brokers and other persons from the fees and commissions that would otherwise be required to be reported on the Schedule A. The same restrictions governing this

[11] Although the proposal eliminated the Schedule A filing requirement for plans eligible to file the Short Form 5500, the Short Form 5500, consistent with the overall objective of improving fee transparency, the Short Form 5500 adopted from the Schedule A requirement to report aggregate insurance fees and commissions, in the form of a compliance question.

[12] If commissions and finders' fees are imbedded in insurance company payments to agents, brokers or others for services that are part of the insurer satisfying its contractual obligation to provide benefits under the plan, such as payments for claims processing or recordkeeping, such commission and finders' fees would still be reportable on the Schedule A.

exception under the Schedule C will apply to the Schedule A. The instructions for the Schedule A have been revised accordingly.

7. Removal of IRS-Only Schedules

Generally commenters were supportive of the removal of IRS-only schedules. One commenter suggested, however, that the IRS should provide guidance on the method and format of reporting information formerly on the Schedule SSA. The IRS is reviewing alternatives for simplifying the filing of the data formerly on the Schedule SSA and working with stakeholders in exploring and evaluating simplification and other changes while ensuring that this data remains a source of information for the Social Security Administration. The Agencies note that due to the additional one-year deferral in implementing the annual reporting form changes not mandated by the PPA (except for a few Schedule R items), the removal of IRS-only forms and schedules as a result of the electronic filing mandate will also be delayed until the electronic filing system is in place. Therefore, Form 5500-EZ, Schedule E, and Schedule SSA will continue to be filed under the current EFAST processing system for the 2007 and 2008 plan years.

8. Compliance Questions (Schedule H, Schedule I, Short Form 5500)

a. Delinquent Participant Contributions and Loan Repayments on Schedule H, Line 4a

The comments submitted on this issue generally supported the Department's inclusion in the instructions of a format for a supplemental schedule to be used by the plan's accountant for purposes of rendering an opinion on whether delinquent participant contributions information on Line 4a of Schedule H is presented fairly, and is in all material respects the information required to be reported. Commenters also supported the proposal to revise the instructions to expressly confirm that delinquent participant loan payments can be included on Line 4a as opposed to being reported in response to the general prohibited transaction question on Line 4d. Accordingly, the revised instructions for line 4a are being adopted as proposed.

One commenter thought that it would be easier to report delinquent contribution information if the items on the proposed standardized schedule were incorporated into Line 4a itself and the requirement to attach a supplemental schedule were eliminated. A commenter representing accountants stated that including a standard schedule for reporting delinquent contributions in the Form 5500 Annual Return/Report instructions was helpful, but suggested that it be revised to be identical to the prohibited transaction schedule included in Schedule G.

The revisions to the 2002 Form 5500 Annual Return/Report eliminated the need for plan administrators to double report delinquent participant contributions on Line 4a (which specifically asked about delinquent transmittal of participant contributions) and Line 4d (which asked about prohibited transactions with parties in interest). Rather, the instructions for Line 4a expressly state that the amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (*see* 29 CFR 2510.3–102) and caution that an employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (*see* ERISA section 406). A delinquent participant contribution reported on Line 4a is, by definition, a prohibited transaction. Reporting that transaction again on Line 4d was unnecessary and made it difficult for the Agencies to use effectively the information reported on Line 4d in cases where the plan was reporting other prohibited transactions on Line 4d.

Likewise, having the Line 4a supplemental schedule format match the prohibited transaction format on Schedule G also would result in unnecessary reporting. By definition the party-in-interest involved is the employer and the prohibited transaction is the delinquent transmittal of participant contribution or delinquent transmittal of participant loan repayments. The Schedule G requirements to identify the parties involved and describe the nature of the prohibited transaction are therefore unnecessary. Further, the Schedule G is structured so that it can be used to report a diverse variety of prohibited transactions, whereas the additional elements on the proposed format for the Line 4a supplemental schedule are tailored for the specific prohibited transaction involved. Finally, line 4a requires reporting delinquent contributions regardless of whether the prohibited transaction has been fully corrected under the Department's Voluntary Fiduciary Correction Program (VFCP) and the conditions of Prohibited Transaction Class Exemption 2002–51 have been satisfied, but Schedule G only requires reporting if an exemption does not apply.

The Department had posted a series of frequently asked questions (FAQs) on its Web site at *http://www.dol.gov* to provide guidance to plan administrators and accountants on complying with the requirements of the Form 5500 Annual Return/Report for reporting delinquent participant contributions. The format of the supplemental schedule included in the July 2006 Proposal was taken in large part from similar formats included in those FAQs. The July 2006 Proposal was intended to incorporate the guidance in those FAQs into the instructions to the Form 5500 in order to make that guidance more generally available to plan administrators and to assist accountants in satisfying their obligations under ERISA section 103 to treat the information on Line 4a as subject to the audit requirement and as part of the supplemental schedules for purposes of the IQPA report and opinion.

b. Reporting Blackouts and Blackout Notices

One commenter expressed concern about the structure of the compliance questions proposed for Schedule H, Schedule I, and the Short Form 5500 on whether there was a ''blackout period'' subject to the notice requirements in section 101(i) of ERISA and the Department's regulation at 29 CFR 2520.101–3. Specifically, the commenter noted that the proposal would require a plan administrator whose plan had experienced a ''blackout period'' during the reporting year to answer that a blackout notice was not provided even in cases where an exception from the notice requirement applied. Although the proposed instructions expressly directed filers to indicate that they had not provided a notice even in cases where an exception from the notice requirement applied, the blackout notice questions have been modified to address the commenter's concern. The first question asking whether there was a blackout remains unchanged. The second question has been modified to have filers check ''yes'' if they either provided the required notice or one of the exceptions to providing the notice applied or ''no'' if they did not provide notice and no exception applied.

c. Reporting ''Deemed'' Distributions

One commenter suggested moving line items regarding defaulted participant loans as ''deemed'' distributions on the Short Form 5500,

Schedule H, and Schedule I from the financial section to the compliance section. The commenter argued that loans that are deemed distributed for tax purposes generally continue to be plan assets for plan qualification and financial reporting such that traditional recordkeeping and financial reporting systems do not ''write off'' the deemed distribution amount from the books. The Agencies established the current regime for reporting deemed distributions during the last major revision of the forms in connection with the 1999 Form 5500 Annual Return/Report. The Agencies considered off-balance sheet reporting for deemed distributions, but that approach failed to address various reporting questions such as: what is the appropriate value for carrying loans that have been deemed distributed where there is no reasonable expectation that the loan would be repaid until offset against an account value at the time of an actual distribution; should the value include continued accrual of interest payments as they become due even after the loan is deemed distributed and, if so, would that practice inappropriately inflate the apparent value of plan assets; and if the loan is required to be carried as a plan asset, with or without interest accruals, should an offsetting increase in a reserve for bad debts be included in the financial statements to avoid an inflated figure for total plan assets. The treatment of deemed distributions currently set forth in the instructions dealt with these questions as a financial reporting matter within the context of treating the loans as deemed, not actual, distributions. While the requirements relating to participant loans (including defaulted participant loans) are a compliance matter and information relating to these loans must be maintained as part of the plan's records, the Agencies have determined not to make the change suggested by the commenter. The IRS, however, is considering whether to further clarify the reporting of defaulted participant loans in the instructions.

d. Reporting ''Incurred But Not Reported''

Funded health and welfare plans may be exposed to a financial obligation for claims that have been incurred, for example, by a participant who obtained covered health care treatment from a doctor or hospital, but that have not yet been reported to the plan in the form of a claim for benefits. Many funded plans thus establish an ''Incurred But Not Reported'' (IBNR) accounting reserve for such claims that have been incurred but not yet been submitted for payment. The financial accounting for these obligations is required under the American Institute of Certified Public Accountant's Statement of Position 01–2, but that accounting treatment is not consistent with Form 5500 Annual Return/Report reporting requirements, which allow funded welfare plans to report IBNR on the Schedule H financial statements as a plan liability. A commenter representing the accounting industry suggested modifying the instructions for Schedule H to shift reporting of IBNR for welfare plans from the financial statements on the Schedule H to the general compliance questions on the Schedule H, presumably in order to avoid the need for the accountant's report to include a reconciling note reflecting the difference between the Schedule H financial statements and any separate financial statements prepared by the accountant for purposes of rendering the required accountant's opinion under section 103 of ERISA. The reason that IBNR was permitted to be included in the Schedule H financial statements was due to comments from representatives of large funded welfare benefit plans that maintained their financial records on a cash basis and claimed that their IBNR reserve can often amount to a fairly significant liability for plans such that failing to include the liability on the Schedule H for a cash basis filer created the false impression that the plan was substantially overfunded at the end of the plan year. There was nothing in the accounting industry comment that suggested the above described problem was no longer a concern for large funded welfare plans or that explained how the proposed change would substantially benefit employee benefit plans, their participants and beneficiaries, or the Agencies, and, accordingly the option to include IBNR as part of the plan's liabilities is not being converted into a mandatory compliance question for all welfare plans that file the Schedule H at this time.

e. Assets Without Readily Determinable Current Value

Line 4g of the Schedule H is a compliance question that asks whether the plan held any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser. If the answer to Line 4g is ''yes,'' the filer is required to report the value of those assets. Line 4g currently gives examples of assets that may not have a readily determinable value on an established market (e.g., NYSE, AMEX, over the counter, etc.) including real estate, nonpublicly traded securities, shares in a limited partnership, and collectibles. An accounting industry commenter suggested that the instructions be revised to include expressly ''hedge funds, certain [common and collective trusts], and stable value funds'' as examples of assets required to be reported on Line 4g. The Agencies did not adopt this suggestion. Rather than there being a generally accepted definition of what constitutes a ''hedge fund'' or ''stable value fund,'' the class of investments that might fit within those terms is quite diverse. More importantly, regardless of the label used to describe an investment, the standard for Line 4g remains the same—assets should be listed if they do not have a readily determinable value on an established market and were not valued by an independent third-party appraiser during the plan year.

The comment did, however, lead the Agencies to evaluate the instructions and conclude that a strict reading of Line 4g might lead filers to conclude that certain types of common plan investments are required to be reported on Line 4g, such as insurance investment contracts and mutual fund shares. The Agencies, therefore, are modifying the instructions to Line 4g to make clear that insurance investment contracts for which the plan received valuation information at least annually and mutual fund shares are not reportable on Line 4g.

f. Reporting Mutual Fund Dividends

A commenter suggested that Line 2b of Schedule H (dividends) should be expanded to add an entry for dividend payments on mutual fund shares. The Schedule H currently has entries for dividend payments on common and preferred stock and for income gain/loss for mutual fund (Investment Company) shares, but no entry for dividend payments on mutual fund shares. The Agencies believe separately identifying mutual fund share dividends would provide useful information and would eliminate possible confusion on where to report such income. Accordingly, the Agencies are adding a new Line 2b(2)(C) to report mutual fund dividend payments.

g. Reporting ''Total Fees Paid''

A commenter asked for clarification as to whether the lines on Schedule H and Schedule I for ''total fees paid'' include indirect compensation. The commenter correctly noted that the proposed instructions for these Schedules did not expressly include indirect compensation and that the balance sheet structure of the financial statements on these Schedules was

consistent with a conclusion that only compensation paid directly by the plan would be reported. The Department agrees that indirect compensation received from parties other than the plan, although it may be a reportable fee or expense on the Schedule C or Schedule A, is not reportable on the balance sheet structured asset/liability and income/expense statements in the Schedule H, the Schedule I, or the Short Form 5500.

9. Schedule R (Retirement Plan Information)

a. Minimum Funding

One commenter suggested simplifying line items on the Short Form 5500 and the Schedule R concerning minimum funding. The Agencies have determined that the minimum funding reporting requirements are necessary and consistent with the PPA's additional reporting requirements relating to plan funding and to ensuring transparency and accountability. The Agencies, however, have determined to make certain revisions to the minimum funding information on Schedule R and the Short Form 5500 to avoid any discrepancies in the data being reported. Therefore, the Short Form 5500 and Schedule R minimum funding questions are being revised to provide adequate information on minimum funding to the Agencies, participants, and other interested persons.

b. Asset Allocation Information for Very Large Defined Benefit Pension Plans

Twelve commenters addressed the PBGC's efforts to gather information on the allocation of assets by large defined benefit pension plans. (Two of these commenters reiterated their concerns when commenting on the Supplemental Notice.) Four commenters asserted that most of the information is already included as a part of the Schedule H and that collecting this data is unnecessary. Six commenters said it would be difficult or costly to obtain the requested asset allocation breakdowns for assets invested in commingled funds. Two asked that the effective date of the additional information be delayed. The commenters acknowledged that such information is required on the SEC Form 10–K. Two pointed out that the 10–K data are aggregated from all of the sponsor's defined benefit plans and do not include the detailed debt breakout requested in the proposal. Four noted that the data on the SEC Form 10–K may be as of a date that is different from the plan reporting date for the Form 5500 Annual Return/Report. Three also noted that non-publicly traded companies are not required to file the SEC Form 10–K and, therefore, do not necessarily collect this information. One suggested that the new funding requirements of the recently enacted PPA diminish the value of this information. One commenter supported the proposal to move the asset allocation information from Schedule B to Schedule R (as noted in the Supplemental Notice).

Two commenters noted that providing the Macaulay duration would be time consuming and costly. Four suggested that the Macaulay duration is not a good measure of risk and does not address the callability of some bonds. Others suggested that the effective duration is a more commonly used measure than the Macaulay duration. Three commented that the debt holdings of some plans are split among several different bond managers and providing a single duration measure for all of the plan's debt holdings could be difficult.

In an effort to address the comments citing the burden of complying with the data collection, the questions were modified to reduce the number of calculations. Specifically, instead of asking for the distribution by four categories (stocks, debt, real estate, and other) and then asking for a separate breakdown of the debt, the questions have been restructured to ask for data on five categories of assets (stocks, investment-grade debt, high-yield debt, real estate, and other) that should sum to 100 percent. Holdings of government bonds would be included in the appropriate debt group which should generally be investment-grade debt.

In response to comments on the appropriateness of reporting the average duration determined using the Macaulay measure, two changes have been made. First, ranges are provided so that, in most cases, an estimate will suffice (0–3 years, 3–6 years, 6–9 years, 9–12 years, 12–15 years, etc.). Guidance regarding how to determine the average duration when there are multiple bond portfolios will be included in the instructions to the 2008 Form 5500 Annual Return/Report. It is anticipated that the instructions will provide that the weighted average of the individual portfolio average durations (where the weights are the values of the bond portfolios) be reported for plans with several bond portfolios.

Second, any generally accepted measure of duration may be used (effective duration, modified duration, Macaulay duration, etc.). An item has been added to report the measurement basis that was used to determine the average duration.

As redesigned, the allocation of assets questions will provide the PBGC with important data necessary to enable it to monitor properly the plans it insures. The data will be particularly useful for the PBGC's Early Warning program, which is designed to identify plans whose risk to the PBGC is increasing. For many plans the PBGC is unable to derive this information from the current Schedule H data. Knowing not only the level of plan assets relative to its liabilities but also how well a plan's assets match these liabilities is integral information the PBGC needs to properly assess the risks and exposures the Agency faces.

The difficulty in obtaining asset allocation information for assets invested in commingled funds is appreciated, and, in fact, is the reason the PBGC needs to collect these data on the Form 5500 Annual Return/Report. For publicly traded companies, the allocation of these assets is reported on companies' Form 10–K. Even in cases where aggregated data are reported on the Form 10–K or where data are determined as of a different date, the disaggregated information should be accessible without undue burden. Also, most financial information is available on a daily basis and the incremental costs for obtaining this data for the valuation date should not be significant. The cost of obtaining the data may be somewhat higher for non-publicly traded companies that may need to institute new procedures to obtain this information; however, the PBGC's need for this data for plans of non-publicly traded companies is also great. The PBGC believes ample notice has been given to allow companies to make whatever data gathering arrangements are necessary because notification of these questions was given at least three years prior to the first date they would be due (July 31, 2009 for calendar year plans) and because similar information is already required to be provided on the Form 10–K.

The bond portfolio duration information will help the PBGC properly monitor the plans it insures in several ways. First, as an insurer, the PBGC needs to know not only what proportion of a plan's liabilities is covered by its assets, but also how well those assets immunize the liabilities. Second, it will assist the PBGC in its monitoring activities and indicate which plans are moving to more risky asset investments that could increase the PBGC's exposure or the likelihood that the PBGC will receive a claim from that plan. Third, it will inform the PBGC of how to negotiate better protections for the plan's participants should such negotiations become necessary. Finally, it would assist the PBGC's modeling

efforts for informing policy makers if additional legislative or regulatory changes are needed to protect plan participants and the insurance programs.

One commenter suggested that the strengthened funding rules under the PPA negate the need for the additional asset allocation information. The new funding rules do not guarantee that the plans that the PBGC insures will become and remain fully funded in the future. Even if they do become fully funded, the PBGC's risk is highly dependent on how well plans' assets immunize their liabilities. A decrease in the price of stocks generally or a decrease in interest rates can quickly move a plan from being fully-funded to being only 80 percent funded, or worse.

c. Information on Major Contributors to Multiemployer Defined Benefit Pension Plans

One comment was submitted about the PBGC's efforts to obtain data on major contributors to multiemployer pension plans. The commenter questioned how information should be reported in situations where a contributing employer has multiple contribution rates, contribution base units, or bargaining agreement expiration dates with respect to different groups of participants under the plan. In response to this comment, question 13 has been slightly modified. In this situation, in lieu of reporting this information directly on the form, plan administrators will check a box to indicate that the employer contributes under two or more collective bargaining agreements or at different rates for different classes of participants and include, as an attachment, a summary of the date each collective bargaining agreement expires and/or information about each contribution rate.

d. Number of Participants on Whose Behalf No Contributions Were Made by an Employer and Ratio of Participants on Whose Behalf No Employer Had an Obligation To Make Contributions

One commenter suggested that the definition of ''participant'' for this purpose needs to be clearly defined. Although no comments were submitted with respect to the question on the ratio of participants on whose behalf no employer had an obligation to make contributions, the wording on the Schedule R has been revised to conform more closely to the wording in section 503(a) of the PPA. Terms will be defined in the instructions for the Schedule R.

e. Information on the Number of Employers Who Withdrew From the Plan During the Preceding Year and the Amount of Their Withdrawal Liability

One commenter questioned whether the definition of ''withdrew'' is the definition contained in the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96–364, 94 Stat. 1208, which includes special rules for plans in the construction, entertainment, and other industries. *See* ERISA section 4203. Guidance regarding the definition of ''withdrew'' for this purpose will be included in the instructions to the 2008 Form 5500 Annual Return/Report.

10. Streamlining Form

a. Reducing the Number of Supplemental Attachments

A commenter who was focused particularly on the Short Form 5500 suggested that it would further streamline the filing process for small plans if the Agencies eliminated supplemental attachments for Line D of the Form 5500 Annual Return/Report and Line C of the Short Form 5500 regarding filing under extension or under the Delinquent Filer Voluntary Correction Program (DFVC Program). The Agencies agree that eliminating those supplemental attachments would facilitate electronic filing, especially for small plans. Accordingly, for those filing on extension or under the DFVC Program, filers would now simply check a box as to the type of extension (IRS Form 5558, Corporate tax extension, special extension) or the DFVC Program. A new space is being added to this line for filers using a special extension, *i.e.* disaster relief or combat extension, to provide a brief description of the extension. Filers would no longer have to attach a copy of the request for extension filed with the IRS or create a special supplemental attachment to describe the filing under a special extension or the DFVC Program, although they would continue to be required to maintain a copy of any request for an extension filed with the IRS as part of their records.

That commenter also suggested that the supplemental schedules should not be required to be attached if information on Schedule H, Line 4i (assets held for investment) and Line 4j (5% reportable transactions), are in the IQPA report. Past experience with the supplemental schedule for Line 4a strongly suggests that making this change could give rise to confusion among accountants regarding their obligations to render opinions on the supplemental schedules required to be part of the annual report. *See* ERISA section 103(a)(3)(A). Accordingly, and although acknowledging that many IQPA reports include information on Schedule H, Line 4i (assets held for investment) and Line 4j (5% reportable transactions), the change is not being made at this time.

b. Welfare Plan Reporting

Two commenters suggested that welfare plans have separate reporting forms and instructions. This comment appears to be based on the premise that the Form 5500 Annual Return/Report is primarily designed to collect information about the activity of retirement plans and that creating a separate form for welfare plans would be more appropriate than having the welfare plan fit itself into a retirement plan-oriented filing. As noted in the preamble to the proposal, the Department believes that generally retaining the current reporting requirements is important for disclosure purposes for both the Department and for participants and beneficiaries in the welfare plans that currently report. Rather than being designed for pension plans versus welfare plans, the Form 5500 Annual Return/Report is primarily focused on collecting financial information about funded plans and plans that use insurance products to provide benefits. The Department already exempts most small welfare plans from the requirement to file a Form 5500 Annual Return/Report and exempts most large welfare plans from the financial reporting and audit requirements in its regulations at 29 CFR 2520.104–20 and 2520.104–44. The structure of the Form 5500 Annual Return/Report was modified in 1999 further to remove pension related information from the welfare plan annual report by structuring the Form 5500 Annual Return/Report as a main Form 5500, which includes basic identifying information, and separate schedules that focus on particular subject matter or filing requirements. The Department also believes that considerations for having a separate form for welfare plans will be less significant in a system where all filing is electronic. Under any type of electronic system, we anticipate that filers would need to access the instructions relevant only to their type of plan, eliminating any potential confusion from determining in a unified form package which instructions are relevant to the filer.

The commenters also suggested that the Department reconsider the ERISA Advisory Council Working Group's recommendation to eliminate the audit requirement for large, funded welfare

plans that do not accumulate assets, but maintain it for multiemployer welfare plans and for single-employer welfare plans that accumulate assets. As noted in the preamble to the July 2006 Proposal, the Department believes that retaining the current requirements as they relate to funded welfare plans (i.e., those with assets held in trust) and large fully insured plans, without imposing new reporting burdens on all welfare plans best serves to balance the needs of the Department and participants and beneficiaries and the burden associated with the reporting requirements.

11. Electronic Filing and Manual Signature Requirements

A commenter noted that instructions to Forms 5500 and 5500–SF under the section entitled ''How to File—Electronic Filing Requirement'' contain the following statement: ''Even though the Forms 5500 and 5500–SF must be filed electronically, the administrator must keep a copy of the Forms 5500 and 5500–SF, including schedules and attachments, with all required manual signatures on file as part of the plan's records * * *.'' The commenter asked for confirmation that plan sponsors may satisfy the Department's record retention rule by maintaining an electronic version (as permitted under ERISA section 107) and, therefore, are not required to keep a paper signature copy of the filing. The Department notes that its electronic filing regulations require that plan administrators and direct filing entities maintain an original copy of the Form 5500 Annual Return/Report, with all required signatures, as part of their records. *See* 29 CFR 2520.103–1, 2520.103–2, 2520.103–9, 2520.103–12. The Department's regulations under ERISA section 107 permit filers to use electronic media for record maintenance and retention, so long as they meet the requirements of 29 CFR 2520.107–1.

Commenters also asked how manual signatures on schedules filed with the Form 5500 will be handled under the EFAST2 electronic filing system. Enrolled actuaries will continue to have the obligation to sign a copy of the plan's Schedule SB or MB (whichever is applicable) and an electronic copy of the manually signed schedule must be filed as part of the plan's electronic filing under the EFAST2 system. To meet this obligation, the plan or the enrolled actuary must use EFAST-approved software capable of generating a printed version of the Schedule SB or MB (whichever is applicable). The completed version of the schedule must be printed, manually signed by the enrolled actuary, and converted into an electronic image (such as a pdf document) of the schedule showing the manual signature, and that electronic image file must be attached to the Form 5500 Annual Return/Report e-filing. A signed copy of the schedule must also be kept on file as part of the plan's records pursuant to the above noted requirements in the Department's annual reporting regulations. It is expected that the Form 5500 Annual Returns/Reports filed by plans subject to the IQPA audit requirement will follow a similar procedure in attaching a copy of the signed IQPA report to the plan's electronically filed annual report.

One commenter noted that the Form 5500 signature section contains a declaration that the signatories have ''examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report,'' and noted that it is unclear what action must be taken by the plan sponsor and plan administrator to satisfy the requirement to examine the electronic version. The declaration on the Form 5500, as well as on the Short Form 5500, continues to provide that the person signing the Form must examine a copy of the electronic version of the annual return/report. The Agencies expect that EFAST2 will be designed in a manner so that all required signatures will satisfy the applicable statutory and regulatory provisions.

C. Overview of the Forms Revisions

The revisions to the annual return/report forms involve the following major categories of changes, along with other technical revisions and updates, to the current structure and content of the Form 5500 Annual Return/Report:

- Establishment of the Short Form 5500 as a new simplified report for certain small plans effective for 2009 plan year;
- Removal of the IRS-only schedules from the Form 5500 Annual Return/Report as a result of the move to a wholly electronic filing system effective for 2009 plan year;
- Elimination of the special limited financial reporting rules for Code section 403(b) plans effective for 2009 plan year;
- Revision of the Schedule C (Service Provider Information) to clarify the reporting requirements and improve the information plan officials receive regarding amounts being received by plan service providers effective for 2009 plan year;
- Replacement of Schedule B with Schedule SB and Schedule MB to reflect the changes in reporting and funding requirements for single and multiemployer defined benefit pension plans under the PPA effective for 2008 plan year;
- Modification of the Schedule R to add questions required by the PPA to gather information on pension plan funding and compliance with minimum funding requirements effective for 2008 plan year but filed as an attachment rather than as actual schedules. These modifications will be effective in standard format for 2009 plan year;
- Modification of the Schedule R to collect data PBGC needs to properly monitor the plans it insures effective for 2008 plan year but filed as an attachment rather than as an actual schedule. These modifications will be effective in standard format for 2009 plan year; and
- Miscellaneous changes to the schedules and instructions to improve and clarify reporting effective for 2009 plan year.

In addition to the description of the form changes contained in this Notice, the Agencies have included the following appendices: (1) Appendix A—a facsimile of the Short Form 5500; (2) Appendix B—Instructions to the Short Form 5500; (3) Appendix C—facsimiles of the Form 5500 Annual Return/Report, Schedule A, Schedule SB, Schedule MB, Schedule C, Schedule D, Schedule G, Schedule H, Schedule I, and Schedule R; and (4) Appendix D—the instructions for the 2009 Form 5500 Annual Return/Report.[13]

1. Short Form 5500 as New Simplified Report for Certain Small Plans

The Agencies are adopting the new two page form—the Short Form 5500—to be filed by certain small plans (generally, plans with fewer than 100 participants) with secure and easy to value investment portfolios—as proposed, except that the instructions for the line item for ''administrative expenses'' has been modified slightly to make it consistent with parallel line items on Schedules H and I.

[13] The instruction language published here is based on that for the 2007 plan year. The Agencies may make changes for the 2008 and/or 2009 plan years not requiring notice and comment that will be made publicly available in time for filing, which will be incorporated into the final 2009 Instructions to the extent appropriate. In addition, the Agencies have eliminated the Schedule B (Actuarial Information) and replaced it with the Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) and Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) for plan years beginning after December 31, 2007. Instructions for those Schedules are dependent on substantive rulemaking under the PPA and will be published separately in advance of the time for filing the Form 5500 Annual Return/Report for plan years beginning after December 31, 2007.

A pension or welfare plan will be eligible to file the Short Form 5500 if the plan: (1) Covers fewer than 100 participants or would be eligible to file as a small plan under the 80 to 120 rule in 29 CFR 2520.103–1(d); (2) is eligible for the small plan audit waiver under 29 CFR 2520.104–46 (but not by virtue of enhanced bonding); (3) holds no employer securities at any time during the plan year; (4) at all times during the plan year, has 100% of its assets in investments that have a readily determinable fair market value; and (5) is not a multiemployer plan. For this purpose, participant loans meeting the requirements of ERISA section 408(b)(1), whether or not they have been deemed distributed, and investment products issued by banks and licensed insurance companies that provide valuation information at least annually to the plan administrator will be treated as having a readily determinable fair market value.

Most Short Form 5500 filers will not be required to file any schedules, although defined benefit pension plans and money purchase plans currently amortizing funding waivers will be required to file Schedule SB or MB.[14]

Small plans that are not eligible to file the Short Form 5500 will continue to be able to file simplified reports as under the current system. Specifically, small plan Form 5500 Annual Return/Report filers will file the Form 5500 and Schedules A, SB or MB, D, I, and R, where applicable. The conditions for the small pension plan audit waiver in 29 CFR 2520.104–46 remain unchanged. Small pension plans will still be able to claim the audit waiver even if they are not eligible to file the Short Form 5500. Conversely, small pension plans filing the Short Form 5500 will continue to be required to meet all applicable requirements for the audit waiver, including the enhanced Summary Annual Report (SAR) and other disclosure requirements of that regulation.[15] Similarly, all welfare plans that file the Form 5500 Annual Return/Report and have fewer than 100 participants are currently exempt from the audit requirement without regard to how their assets are invested. *See* 29 CFR 2520.104–46(b)(2). The Short Form 5500 will not change the welfare plan audit waiver conditions. For a funded welfare plan to be eligible to file the Short Form 5500, however, the plan will have to meet that form's requirements regarding investment assets.

2. Removal of IRS-Only Components From the Form 5500 Annual Return/Report

As described in detail in the July 2006 Proposal, in order to effectuate the electronic filing requirement that will be effective for the 2009 Form 5500 Annual Return/Report, the portions of the Form 5500 Annual Return/Report required to satisfy filing obligations imposed by the Code, but not required under ERISA, had to be removed because the Code and regulations thereunder do not permit the IRS to mandate electronic filing of the Form 5500 Annual Return/Report. Therefore, effective for the 2009 plan year (when mandatory electronic filing is implemented), the following form and schedules will not be filed with the Form 5500 Annual Return/Report to the Department, but will be filed to the IRS: Form 5500–EZ Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan and the Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits).[16] In addition, the Schedule E (ESOP Annual Information) will no longer be required to be part of the Form 5500 Annual Return/Report. [17] Three questions on employee stock ownership plan (ESOP) information on the Schedule E will be moved to the Schedule R effective for the 2009 Form 5500 Annual Return/Report. The IRS, however, has advised the Department that it intends that plan administrators, employers, and certain other entities that are subject to filing and reporting requirements under the Code must continue to satisfy any applicable requirements in accordance with IRS revenue procedures, regulations, publications, forms, and instructions and that the IRS will advise filers of how to provide the information on the Form 5500–EZ and the information formerly required on the Schedule SSA in advance of the time for filing of the 2009 Form 5500 Annual Return/Report. In addition, as described in detail in the July 2006 proposal and to ease the burdens on these filers, the IRS has also advised the Department that certain Form 5500–EZ filers will be permitted to satisfy the requirement to file the Form 5500–EZ with the IRS by filing the proposed Short Form 5500 electronically through the EFAST processing system. Information regarding the Form 5500–EZ filers who would be eligible for this proposed electronic filing option is included in the proposed instruction for the Short Form 5500 under ''Specific Instructions for One-Participant Plans.''

3. Elimination of Limited Reporting Option for Code Section 403(b) Pension Plans

Code section 403(b) plans that are subject to Title I of ERISA now will be subject to the annual reporting rules that apply to other ERISA-covered pension plans, including eligibility for the Short Form 5500.

4. Addition of New Questions to Schedules on Title I Compliance, Service Provider Compensation, and Pension Plan Funding

a. Schedule A: Identify Insurers That Fail To Supply Information

As proposed, a new check box is being adopted on the Schedule A to permit plans to identify situations in which the insurance company or other organization that provides some or all of the benefits under a plan has failed to provide Schedule A information. Space also is provided for the administrator to indicate the type of information that was not provided. As a separate Schedule A is required for each insurance contract, the identity of the insurance company or organization will be self-evident. This would give the Department more usable data on insurers that fail to satisfy their disclosure obligations under section 103(a)(2) of ERISA and the Department's regulations. A reminder is being added to the Schedule A instructions to advise plan administrators that they should contact the insurer to request the required information and to advise the insurer that the plan administrator intends to identify the insurer on the Schedule A as not having provided the information needed.

b. Actuarial Schedules—New Schedules SB and MB

The Agencies have adopted their proposal to eliminate the existing

[14] Short Form 5500 filers will not be required to file Schedule D, but DFEs in which such plans invest will still be required to list the plan name and Employer Identification Number (EIN) on Part II of the DFE's Schedule D.

[15] Small defined benefit plans to which the SAR no longer applies under the PPA for plan years after December 31, 2007, will have to provide the enhanced information in the new Defined Benefit Plan Funding Notice. The Department anticipates publishing a model notice, along with revisions to 29 CFR 2520.104–46, with regard to this change.

[16] Schedule P (Annual Return of Fiduciary of Employee Benefit Trust) was removed from Form 5500 filings beginning with the 2006 plan year (2005 plan year for Form 5500–EZ), in anticipation of the move to electronic filing. *See,* Announcement 2007–63, 2007–30 I.R.B. 65. In addition, Schedule T (Qualified Pension Plan Coverage Information) was removed from Form 5500 filings beginning with the 2005 plan year. The IRS notes that this change was not intended to effect the applicable required or optional non-discrimination testing (including the testing options described in Revenue Procedure 93–42), 1993–2 C.B. 540.

[17] The Schedule E is being removed effective for the 2009 Form 5500 in anticipation of the move to electronic filing.

Schedule B and create two new Schedules—the Schedule SB, ''Single-employer Defined Benefit Plan Actuarial Information,'' and the Schedule MB, ''Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information.'' This is necessary because the PPA significantly changed the funding requirements applicable to defined benefit pension plans. These changes render the existing Schedule B largely obsolete, especially for single-employer defined benefit pension plans. While the PPA changes for multiemployer defined benefit pension plans allow for continued use of a reporting scheme similar to the existing Schedule B, a number of Schedule B changes are needed for multiemployer plans.

i. New Schedule SB ''Single-employer Defined Benefit Plan Actuarial Information''

The Schedule SB is to be filed for all single-employer defined benefit plans (including multiple-employer defined benefit plans).[18] The Schedule SB will capture identifying information about the plan and plan sponsor, the type of plan, and prior year plan size. It includes basic information about plan assets, number of participants, funding target information, and a statement by an enrolled actuary. It consists of basic actuarial worksheets designed to allow the Agencies to evaluate the plan's compliance with the funding requirements as amended by sections 101, 102, 111, and 112 of the PPA, and to ensure that the reporting requirements under ERISA, as amended by section 503 of the PPA, are included on the schedule. The material is divided into sections consisting of ''Basic information,'' ''Beginning of year carryover and prefunding balances,'' ''Funding percentages,'' ''Contributions and liquidity shortfalls,'' ''Assumptions used to determine funding target and target normal cost,'' ''Miscellaneous items,'' ''Reconciliation of unpaid minimum required contributions for prior years,'' and ''Minimum required contribution for current year.'' Airlines that have frozen pension plans electing the alternate funding schedule and plans for which the effective date of the new PPA funding rules is delayed (PBGC settlement plans, certain defense contractors, certain rural electrical cooperatives, etc.) will not be required to fill out all of these sections. Instead, additional information related to the applicable funding rules for such plans will be provided as an attachment.

ii. New Schedule MB, ''Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information''

Schedule MB is to be filed for multiemployer defined benefit plans and for money purchase plans (including target benefit plans) that are currently amortizing funding waivers. Schedule MB is very similar to the existing Schedule B.

New items that have been added include (1) accrued liability determined using the unit credit cost method, (2) information about whether the plan is in endangered, seriously endangered, or critical status, and, if so, whether the plan is complying with the applicable requirements for its funding improvement or rehabilitation plan, and (3) information required by PPA section 503. Information that was applicable solely to single-employer plans has been eliminated.

5. Schedule C: Compensation Received by Plan Service Providers

As in the proposal, the Schedule C will consist of three parts. Part I of the Schedule C will require the identification of each person who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. Direct compensation would be reported on a separate line item from compensation received from sources other than the plan or plan sponsor in connection with the service provider's position with the plan or services provided to the plan. The final revisions also provide an alternative disclosure option for reporting certain eligible indirect compensation provided that certain disclosures are made to the plan administrator regarding the compensation and the party or parties paying and receiving the indirect compensation. With respect to such compensation for which those disclosures were not provided, and other indirect compensation received from sources other than the plan or plan sponsor, filer would report a total amount. They would also provide identifying information regarding the payor and the nature of compensation received by certain key service providers where the amount was $1,000 or more and where the amount was an estimate rather than an actual amount.

A new Part II for Schedule C provides a place for plan administrators to identify each fiduciary or service provider that failed or refused to provide the information necessary to complete Part I of the Schedule C.

The third part of the Schedule C (Part III) will be the current Part II of the Schedule C, used for reporting termination information on accountants and enrolled actuaries. The proposal would not alter these current requirements.

6. Schedules H and I: Compliance With Blackout Notice Requirements

Plan administrators now will report on Schedule H or I, or the Short Form 5500, as appropriate, whether there has been a temporary suspension, limitation, or restriction lasting more than three consecutive business days of any ability of participants or beneficiaries to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain plan distributions. If there was a blackout, plan administrators will have to state if participants either were provided the required notice of this suspension period or one of the exceptions to providing the blackout notice applies.

7. Schedules H and I: Failure To Pay Benefits When Due

As in the July 2006 Proposal, a compliance question that would require plan administrators to answer whether the plan has failed to pay any benefits when due during the plan year is added to the Schedule H and Schedule I, and is also included on the new Short Form 5500.

8. Schedule I: Separate Disclosure of Fees Paid to Administrative Service Providers

The disclosure requirements for direct compensation paid by small plans for administrative expenses, i.e., professional and administrative salary, fee, and commission payments, were expanded in the proposal and are modified here in response to comments suggesting that the requirements for Short Form 5500, Schedule I, and Schedule H filers be more uniform. As with the proposal, the Short Form 5500 and Schedule I have a separate line item for direct payments to professional and administrative service providers, which will promote better awareness among plan fiduciaries regarding these fee payments and will provide participants, beneficiaries, and government regulatory agencies with improved

[18] Unike multiemployer plans within the meaning of ERISA sections 3(37) and 4001(a)(3) to which more than one employer is required to contribute, which must be maintained pursuant to one or more collective barganing agreements between one or more employee organization and more than one employer, and which must satisfy other requirements prescribed in regulations issued by the Department at 29 CFR 2510.3–37, multiple-employer plans are plans that cover the employees of two or more employers but are treated as single-employer plans for various purposes under ERISA.

disclosure of these plan expenses. The instructions have been modified, however, to make more explicit that the information included in the administrative expense line on the Short Form 5500 and Schedule I more directly correlates to those line items on the Schedule H that ask for a more detailed breakout of such information.

9. Schedule R

As proposed, Schedule R has been modified for 2009 to include additional questions required by section 503 of the PPA and to collect information on how assets are invested. Certain ESOP questions previously on the Schedule E also have been moved to the Schedule R.

The new Part V collects PPA-required information on multiemployer defined benefit plans and additional information related to major contributing employers. Asset allocation questions for large defined benefit plans (1,000 or more participants) are included in Part VI. Such plans must provide a breakdown of plan assets by type of investment (stock, investment-grade debt, high-yield debt, real estate, and other). Information on the average duration of combined investment-grade and high-yield debt is also required. For this purpose, duration may be determined using any generally accepted methodology.

Schedule R has been modified, as proposed, to ask the following questions regarding the operations and investments of the ESOP: (1) Whether any unallocated employer securities or proceeds from the sale of unallocated securities were used to repay any exempt loan; (2) whether the ESOP holds any preferred stock, and if so, whether the ESOP has an exempt loan with the employer as lender that is part of a ''back-to-back'' loan—the repayment terms of the employer loan to the ESOP are substantially similar to the repayment terms of a loan to the employer from a commercial lender; and (3) whether the ESOP holds any stock that is not readily tradable on an established securities market.

The new PPA-related questions and the asset allocation questions on the 2009 Schedule R, but not the ESOP questions, will be required to be submitted as a non-standard attachment to the 2008 Schedule R under the original EFAST system.

10. Other Improvements and Clarifications of Form 5500 Reporting Requirements

The last category of revisions involves technical amendments to the Form 5500, individual schedules, and instructions to clarify and improve existing reporting requirements that either were set forth in the proposal or are being made in response to public comments.

a. Form 5500

A question asking for the number of contributing employers in a multiemployer plan is added to the Form 5500. The instructions for the funding and benefit checklists have been expanded to clarify that Code section 403(b) plans invested in annuity contracts should check ''insurance'' and plans using Code section 403(b)(7) custodial accounts should check ''trust.'' The Form 5500 includes a checklist of the various schedules that may be required to be attached. In addition to revising the checklist to eliminate the IRS-only Schedules, and replacing the Schedule B with the Schedules SB and MB, the Agencies have also kept the other proposed cosmetic changes to the presentation of the schedule checklist. Under the current filing requirements, plans must include on the Form 5500 all of the plan characteristics that apply to the plan from a list of codes included in the instructions. These ''feature'' codes allow the Agencies to identify and classify the universe of filers by their major characteristics. New plan feature codes for defined contribution pension plans with automatic enrollment features and default investment provisions have been added. The Agencies also have eliminated the feature codes for certain types of plans that are not subject to Title I of ERISA because they will not be filing the Form 5500 with EFAST under the proposed electronic filing system. The optional line for identifying the principal preparer of the Form 5500 is deleted.

b. Schedules H and I: New Supplemental Schedule for Line 4a of the Schedule H for Reporting Delinquent Participant Contributions

The instructions continue to state that delinquent participant contributions reported on Schedule H, Line 4a, should be treated as part of the supplemental schedules for purposes of the required IQPA audit and opinion. The instructions separately also provide that, if the information contained on Schedule H, Line 4a, is not presented in accordance with the Department's regulatory requirements, the IQPA report must make the appropriate disclosures in accordance with Generally Accepted Auditing Standards (GAAS). The instructions to Schedule H, Line 4a, are modified to require delinquent participant contributions to be presented on a standardized supplemental schedule where delinquent participant contributions are identified on Line 4a and are expanded to include the guidance contained in the previously released ''FAQs on Reporting Delinquent Participant Contributions on the Form 5500,'' available on the Department's Web site at *http://www.dol.gov*, that make explicit the IQPA's separate opinion obligations under ERISA and GAAS.[19] The new Schedule H, ''Line 4a ''Schedule of Delinquent Participant Contributions'' will identify the total participant contributions transferred late to the plan, the total that are nonexempt prohibited transactions, and the total contributions fully corrected under the VFCP. *See* 71 FR 20262 (Apr. 19, 2006). Those that constitute nonexempt prohibited transactions would be broken down into contributions not corrected, contributions corrected outside of the VFCP, and contributions pending correction in the VFCP.[20]

In addition, as proposed, the Schedule H and I instructions for Line 4a now permit inclusion of delinquent forwarding of participant loan repayments on Line 4a of the Schedule H or Schedule I, and Line 10a of the Short Form 5500, provided that filers that choose to include such participant loan repayments on Line 4a use the same supplemental schedule and IQPA disclosure requirements for the loan repayments as for delinquent transmittals of participant contributions. At the suggestion of one commenter, a checkbox has been added to the new line 4a Schedule to identify whether loan repayments are included.

c. Schedule R: New Minimum Funding Question

Schedule R currently contains questions regarding minimum required contributions for certain defined contribution plans. An additional question now asks whether the minimum funding amount reported will be met by the funding deadline and the minimum funding questions have been revised to avoid any discrepancies in the date being reported.

[19] The addition of the supplemental schedule to provide a format for describing the delinquent participant contributions does not alter the IQPA's duty to treat Line 4a itself as one of the supplemental schedules for purposes of its audit duties both under ERISA and under GAAS.

[20] A similar addition would be made to the instructions for Line 4a of the Schedule I applicable to small plans filers who are not eligible for the audit waiver.

d. Miscellaneous Technical Adjustments

Various commenters submitted technical suggestions on how to further improve and clarify various portions of the proposals which focused principally on technical corrections and improvements in the instructions as opposed to changes on the forms. The Agencies have reviewed the comments and made various technical corrections/clarifications in response to those comments.

D. Regulations Relating to the Proposed Form

As noted above, certain amendments to the annual reporting regulations under ERISA are necessary to accommodate some of the revisions to the forms. The Department is publishing separately today in the **Federal Register** amendments to the Department's annual reporting regulations. That document includes a discussion of the findings required under sections 104 and 110 of ERISA that are necessary for the Department to adopt the Form 5500 Annual Return/Report, as revised herein, and the new Short Form 5500, as an alternative method of compliance, limited exemption, and/or simplified report under the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA.

Paperwork Reduction Act Statement

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)), the July 2006 Proposal solicited comments on the information collections included in the proposed revision of the Form 5500 Annual Return/Report pursuant to Part 1 of Subtitle B of Title I and Title IV of ERISA and the Internal Revenue Code. The Department also submitted an information collection request (ICR) to OMB in accordance with 44 U.S.C. 3507(d), contemporaneously with publication of the July 2006 Proposal, for OMB's review of the Department's information collections previously approved under OMB Control No. 1210–0110.[21] Public comment on the information collections contained in the Supplemental Notice was also solicited in connection with its publication in December, 2006. Although no public comments were received that specifically addressed to the paperwork burden analysis of the information collections, the comments that were submitted in response to the July 2006 Proposal and the Supplemental Notice, which are described earlier in this preamble, contained information relevant to the costs and administrative burdens attendant to the proposals. The Agencies took into account such public comments in connection with making changes to the proposals, analyzing the economic impact of the proposals, and developing the revised paperwork burden analysis summarized below.

In connection with the publication of this Notice, the Department and the PBGC submitted ICRs to OMB for its review and approval of the information collections contained in the Form 5500 Annual Return/Report, as herein revised, and the new Short Form 5500. OMB has approved these ICRs. The IRS has not submitted an ICR to OMB, but will do so in advance of release of the Form 5500 Annual Return/Report and the Short Form 5500 for public use as agreed with OMB. The public is advised that 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 Department intends to publish a notice announcing OMB's decision upon review of the Department's ICR.

A copy of the ICR for an Agency may be obtained by contacting the appropriate PRA addressee shown below or at www.RegInfo.gov. PRA Addressees: Department of Labor: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. Pension Benefit Guaranty Corporation: Disclosure Division of the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., 11th Floor, Washington, DC 20005–4026. Telephone: (202) 326–4040 (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and asked to be connected to (202) 326–4040). Fax: (202) 326–4042. Except as otherwise indicated, these are not toll-free numbers.

The following is a summary of the information collection and the Agencies' estimates of the burden it imposes for plan year 2007:

Type of Review: Revision of a currently approved collection.

Agencies: Employee Benefits Security Administration (OMB No. 1210–0110); Internal Revenue Service (OMB No. 1545–0710); Pension Benefit Guaranty Corporation (OMB No. 1212–0057).

Title: Form 5500 Series.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Form Number: DOL/IRS/PBGC Form 5500, DOL/IRS/PBGC Form 5500–SF, and Schedules.

Total Respondents: 780,000.

Total Annual Responses: 780,000.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 1.13 million (see below for break-out of annual burden hours by Agency).

Total Annual Burden Cost (Operating and Maintenance): $333 million (see below for break-out of total annual burden cost by Agency).

The Agencies' burden estimation methodology excludes certain activities from the calculation of ''burden.'' If the activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it is not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities, and income and expenses for the purposes of operating the business or entity. These recordkeeping activities were not included in the calculation of burden because prudent business or financial entities collect and maintain such information for ordinary and customary business reasons unrelated to annual return/reporting under ERISA. This analysis accounts only for time necessary for gathering and processing information associated with the annual return reporting, including learning about changes in the reporting requirements.[22] In addition, an activity is counted as a burden only once if performed for both Code and Title I annual return/reporting purposes. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions, but no additional recordkeeping burden attributable to the Form 5500 Annual Return/Report or the Short Form 5500.

Paperwork and Respondent Burden

Estimated time needed to complete the forms listed below reflects the combined requirements of the IRS, the Department, and the PBGC. The time needed by a particular plan will vary depending on individual circumstances.

[21] On August 29, 2006, OMB issued a notice indicating that it would continue its approval of the information collections approved under Control No. 1210–0110 as currently in effect, but would not approve the Department's request for approval of revisions to the ICR until after consideration of public comment on the July 2006 Proposal and promulgation of a final rule, describing any changes.

[22] The Agencies have designed the instruction package for the 5500 Forms so that filers generally will be able to complete the Form 5500 Annual Return/Report or the Short Form 5500 by reading the instructions without needing to refer to the statutes or regulations themselves.

The estimated average times are shown in Table 1 below.

TABLE 1.—BURDEN BY SCHEDULE AND YEAR [23]

	Pension		Welfare	
	Large	Small	Large	Small
Plan Year 2007 Burden				
Form 5500	1 hr., 43 min.	1 hr., 17 min.	1 hr., 45 min.	1 hr., 14 min.
Sch A	2 hr., 41 min.	2 hr., 44 min.	3 hr., 30 min.	2 hr., 36 min.
Sch B	7 hr., 56 min.	7 hr., 55 min.		
Sch C	2 hr., 22 min.		3 hr., 8 min.	
Sch D	1 hr., 39 min.	20 min.	1 hr., 52 min.	20 min.
Sch E	3 hr., 18 min.	3 hr., 18 min.		
Sch G	11 hr., 29 min.		11 hr.	
Sch H	7 hr., 12 min.		8 hr.	
Sch I		1 hr., 57 min.		1 hr., 48 min.
Sch R	1 hr., 36 min.	1 hr., 3 min.		
Sch SSA	6 hr., 25 min.	1 hr., 42 min.		
Plan Year 2008 Burden				
Form 5500	1 hr., 43 min.	1 hr., 17 min.	1 hr., 45 min.	1 hr. 14 min.
Sch A	2 hr., 41 min.	2 hr., 44 min.	3 hr., 30 min.	2 hr., 36 min.
Sch MB	9 hr., 12 min.	4 hr., 29 min.		
Sch SB	9 hr., 8 min.	9 hr., 19 min.		
Sch C	2 hr., 22 min.		3 hr., 8 min.	
Sch D	1 hr., 39 min.	20 min.	1 hr., 52 min.	20 min.
Sch E	3 hr., 18 min.	3 hr., 18 min.		
Sch G	11 hr., 29 min.		11 hr.	
Sch H	7 hr., 12 min.		8 hr.	
Sch I		1 hr., 57 min.		1 hr., 48 min.
Sch R	1 hr., 55 min.	1 hr., 10 min.		
Sch SSA	6 hr., 25 min.	1 hr., 42 min.		
Simplified Filing Option for Certain Small Plans.		2 hr., 34 min.		2 hr., 32 min.
Plan Year 2009 Burden				
Form 5500	1 hr., 54 min.	1 hr., 19 min.	1 hr. 45 min.	1 hr., 14 min.
Sch A	2 hr., 52 min.	2 hr., 51 min.	3 hr., 39 hr.,	2 hr., 43 min.
Sch MB	7 hr., 52 min.	4 hr., 14 min.		
Sch SB	6 hr., 38 min.	6 hr., 49 min.		
Sch C	3 hr., 4 min.		3 hr., 38 min.	
Sch D	1 hr., 39 min.	20 min.	1 hr. , 52 min.	20 min.
Sch G	11 hr., 29 min.		11 hr.	
Sch H	7 hr., 42 min.		8 hr., 35 min.	
Sch I		2 hr., 5 min.		1 hr., 55 min.
Sch R	1 hr., 43 min.	1 hr., 5 min.		
Short Form 5500		2 hr., 32 min.		2 hr., 32 min.

The aggregate hour burden for the Form 5500 Annual Return/Report (including schedules and Short Form 5500) is estimated to be 1.13 million for plan year 2007, 1.12 million for plan year 2008, and 854,000 hours for plan year 2009. The hour burden reflects annual filing activities carried out directly by filers. The cost burden is estimated to be $333 million for plan year 2007, $329 million for plan year 2008, and $278 million for plan year 2009. The cost burden reflects filing services purchased annually by filers. Presented below is a chart showing the total hour and cost burden of the revised Form 5500 Annual Return/Report and the new Short Form 5500, separately allocated across the Department and the IRS. There is no separate PBGC entry on the chart because, as explained below, its share of the paperwork burden is very small relative to that of the IRS and the Department.

[23] In 2007 and 2008, certain eligible small plans have a simplified reporting alternative, as described above, which allows eligible filers to complete fewer schedules and line items on certain schedules. For eligible filers that choose to use the simplified reporting option, the burden of filing will be smaller than the tables indicate, because this option allows eligible plans to fill out fewer line items and schedules.

TABLE 2.—AGENCY BURDENS BY YEAR

		Pension plans		Welfare plans		Total		Total
		Large	Small	Large	Small	Large	Small	
Agency Plan Year 2007								
DOL	Hours	219,000	213,000	102,000	3,000	321,000	216,000	536,000
IRS/SSA	$MM	$42	$87	$65	$1.3	$107	$88	$195
	Hours	250,000	327,000	13,000	2,000	264,000	329,000	592,000
	$MM	$33	$100	$1.7	$0.7	$35	$101	$136
Agency Plan Year 2008								
DOL	Hours	219,000	197,000	102,000	3,000	321,000	200,000	521,000
IRS/SSA	$MM	$42	$81	$65	$1.3	$107	$83	$190
	Hours	257,000	321,000	13,000	2,000	270,000	323,000	593,000
	$MM	$36	$99	$1.7	$0.6	$38	$100	$138
Agency Plan Year 2009[24]								
DOL	Hours	258,000	164,000	105,000	2,000	363,000	166,000	529,000
IRS	$MM	$49	$61	$67	$0.8	$117	$62	$178
	Hours	143,000	164,000	14,000	2,000	158,000	166,000	323,000
	$MM	$26	$69	$2	$0.6	$28	$70	$98

The paperwork burden allocated to the PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedules MB and SB, and a portion of Schedule R. The PBGC's Estimated Share of Total Annual Burden is:

- 1,800 hours and $1.6 million for plan year 2007,
- 2,000 hours and $1.8 million for plan year 2008, and
- 1,200 hours and $1.3 million for plan year 2009.

Appendix A

BILLING CODE 4510–29–P

[24] Due to the removal of Schedules E and Schedule SSA, no burden is associated with SSA for plan year 2009.

Form 5500-SF

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Short Form Annual Return/Report of Small Employee Benefit Plan

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA), and sections 6047(e), 6057(b), and 6058(a) of the Internal Revenue Code (the Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500-SF.**

OMB Nos. 1210-0110
1210-0089

2009

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For calendar plan year 2009 or fiscal plan year beginning and ending

A This return/report is for: ☐ single-employer plan ☐ multiple-employer plan (not multiemployer) ☐ one-participant plan

B This return/report is for: ☐ first return/report ☐ final return/report
☐ an amended return/report ☐ short plan year return/report (less than 12 months)

C Check box if filing under: ☐ Form 5558 ☐ automatic extension ☐ DFVC program
☐ special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan

1b Three-digit plan number (PN) ▶

1c Effective date of plan

2a Plan sponsor's name and address (employer, if for single-employer plan)

2b Employer Identification Number (EIN)

2c Plan sponsor's telephone number

2d Business code (see instructions)

3a Plan administrator's name and address (if same as Plan sponsor, enter "Same")

3b Administrator's EIN

3c Administrator's telephone number

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN, and the plan number from the last return/report. Sponsor's name

4b EIN

4c PN

5a Total number of participants at the beginning of the plan year	**5a**	
b Total number of participants at the end of the plan year	**5b**	
c Total number of participants with account balances as of the end of the plan year (defined benefit plans do not complete this item)	**5c**	

6a Were all of the plan's assets during the plan year invested in eligible assets? (See instructions.) ☐ Yes ☐ No

b Are you claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104-46? (See instructions on waiver eligibility and conditions.) ☐ Yes ☐ No

If you answered "No" to either 6a or 6b, the plan cannot use Form 5500-SF and must instead use Form 5500.

Part III Financial Information

7 Plan Assets and Liabilities		(a) Beginning of Year	(b) End of Year
a Total plan assets	7a		
b Total plan liabilities	7b		
c Net plan assets (subtract line 7b from line 7a)	7c		
8 Income, Expenses, and Transfers for this Plan Year		(a) Amount	(b) Total
a Contributions received or receivable from: (1) Employers	8a(1)		
(2) Participants	8a(2)		
(3) Others (including rollovers)	8a(3)		
b Other income (loss)	8b		
c Total income (add lines 8a(1), 8a(2), 8a(3), and 8b)	8c		
d Benefits paid (including direct rollovers and insurance premiums to provide benefits)	8d		
e Certain deemed and/or corrective distributions (see instructions)	8e		
f Administrative service providers (salaries, fees, commissions)	8f		
g Other expenses	8g		
h Total expenses (add lines 8d, 8e, 8f, and 8g)	8h		
i Net income (loss) (subtract line 8h from line 8c)	8i		
j Transfers to (from) the plan (see instructions)	8j		

Part IV Plan Characteristics

9a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

Part V Compliance Questions

10 During the plan year:		Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? (See instructions and DOL's Voluntary Fiduciary Correction Program)	10a			
b Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 10a.)	10b			
c Was the plan covered by a fidelity bond?	10c			
d Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	10d			
e Were any fees or commissions paid to any brokers, agents, or other persons by an insurance carrier, insurance service or other organization that provides some or all of the benefits under the plan? (See instructions.)	10e			
f Has the plan failed to provide any benefit when due under the plan?	10f			
g Did the plan have any participant loans? (If "Yes," enter amount as of year end.)	10g			
h If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	10h			
i If 10h was answered "Yes," check the box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3	10i			

Part VI Pension Funding Compliance

11 Is this a defined benefit plan subject to minimum funding requirements? (If "Yes," see instructions and complete Schedule SB (Form 5500)) ☐ Yes ☐ No

12 Is this a defined contribution plan subject to the minimum funding requirements of section 412 of the Code or section 302 of ERISA? ☐ Yes ☐ No

(If "Yes," complete 12a or 12b, 12c, 12d, and 12e below, as applicable.)

a If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions, and enter the date of the letter ruling granting the waiver. Month _____ Day _____ Year _____

If you completed line 12a, complete lines 3, 9, and 10 of Schedule MB (Form 5500), and skip to line 13.

b Enter the minimum required contribution for this plan year	12b	
c Enter the amount contributed by the employer to the plan for this plan year	12c	
d Subtract the amount in line 12c from the amount in line 12b. Enter the result (enter a minus sign to the left of a negative amount)	12d	

e Will the minimum funding amount reported on line 12d be met by the funding deadline? ☐ Yes ☐ No ☐ N/A

Part VII Plan Terminations and Transfers of Assets

13a Has a resolution to terminate the plan been adopted during the plan year or any prior year? ☐ Yes ☐ No

If "Yes," enter the amount of any plan assets that reverted to the employer this year 13a

b Were all the plan assets distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC? ☐ Yes ☐ No

c If during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

13c(1) Name of plan(s):	13c(2) EIN(s)	13c(3) PN(s)

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including, if applicable, a Schedule SB or Schedule MB completed and signed by an enrolled actuary, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE			
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor

BILLING CODE 4510–29–C

Appendix B

2009 Instructions for Form 5500–SF

Short Form Annual Return/Report of Small Employee Benefit Plan

ERISA refers to the Employee Retirement Income Security Act of 1974, and Code references are to the Internal Revenue Code, unless otherwise noted.

EFAST Processing System

Under the computerized ERISA Filing Acceptance System (EFAST), you must electronically file your 2009 Form 5500–SF. You may file your 2009 Form 5500–SF on-line, using EFAST's web-based filing system or you may file through an EFAST-approved vendor. For more information, see the instructions for Electronic Filing Requirement.

General Instructions

The Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500–SF), is a simplified annual reporting form for use by certain small pension and welfare benefit plans. To be eligible, the plan generally must have fewer than 100 participants at the beginning of the plan year; it must be exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant; it must have 100% of its assets invested in certain secure investments with a readily determinable fair value; it must hold no employer securities; and it must not be a multiemployer plan. *See* Who May File Form 5500–SF for more detailed instructions on who may file the Form 5500–SF. Plans required to file an annual return/report that are not eligible to file the Form 5500–SF must file a Form 5500, Annual Return/Report of Employee Benefit Plan or Form 5500–EZ Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan (to the extent applicable), with all required schedules and attachments (Form 5500).

To reduce the possibility of correspondence and penalties, we remind filers that the Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their return/report forms to minimize the filing burden for employee benefit plans. Administrators and sponsors of employee benefit plans generally will satisfy their IRS and DOL annual reporting requirements for the plan under ERISA sections 104 and 4065 and Code section 6058 by filing either the Form 5500, Form 5500–SF, or Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan (Form 5500–EZ),. Defined contribution and defined benefit pension plans may be required to file additional information with the IRS regarding their compliance with tax laws. *See http://www.irs.gov* for more information. Defined benefit pension plans covered by the PBGC may have special additional requirements, including filing the PBGC Form 1, Premium Package, and reporting certain transactions directly with that agency. *See* the PBGC's Premium Payment Package (Form 1 Package), available at *http://www.pbgc.gov*.

The Form 5500–SF must be filed electronically. *See* How to File—Electronic Filing Requirement instructions. Your entries will be initially screened. Your entries must satisfy this screening in order to be filed. Once filed, your form may be subject to further detailed review, and your filing may be rejected based upon this further review.

ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. *See* Penalties.

Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the DOL to the public pursuant to ERISA sections 104 and 106.

Note: The IRS Form 5500–EZ generally is used by one-participant plans (as defined below) that are not subject to the requirements of section 104(a) of ERISA to satisfy the annual reporting and filing obligations imposed by the Code. Certain one-participant plans who are eligible to file a Form 5500–EZ may file the Form 5500–SF to satisfy the filing obligations under the Code. One-participant plans that are eligible to file the Form 5500–SF electronically complete only certain questions on the Form 5500–SF. (*See* Specific Instructions for One-Participant Plans). Therefore, a plan that is required to file Form 5500–EZ may file the paper Form 5500–EZ with the IRS or the Form 5500–SF electronically. For more information on filing with the IRS go to *http://www.irs.gov/ep* or call 1–877–829–5500.

How To Get Assistance

If you need help completing this form or have related questions, call the EFAST Help Line at [number to be provided] (toll free). The EFAST Help Line is available Monday through Friday from 8 a.m. to 8 p.m., Eastern Time.

You can access the EFAST Web Site 24 hours a day, 7 days a week at *http://www.efast.dol.gov* to:

- View forms and related instructions.
- Get information regarding EFAST, including approved software vendors.
- See answers to frequently asked questions about the Form 5500–SF, the Form 5500 and its Schedules, and EFAST.
- Access the main EBSA and DOL Web Sites for news, regulations, and publications.

You can access the IRS Web Site 24 hours a day, 7 days a week at *http://www.irs.gov* to:

- View forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send comments or request help by e-mail.
- Sign up to receive local and national tax news by e-mail.

You can order related forms and IRS publications by calling 1–800–TAX–FORM (1–800–829–3676). You can order EBSA publications by calling 1–866–444–3272. In addition, most IRS forms and publications are available at your local IRS office.

Table of Contents

Pension and Welfare Plans Required To File Annual Return/Report
Plans Exempt From Filing
Who May File Form 5500–SF
What To File
When To File
Delinquent Filer Voluntary Compliance Program
Change in Plan Year
Penalties
How To File—Electronic Filing Requirement
Specific Instructions for One-Participant Plans

Specific Line By Line Instructions

Part I—Annual Report Identification Information
Part II—Basic Plan Information
Part III—Financial Information
Part IV—Plan Characteristics
Part V—Compliance Questions
Part VI—Pension Funding Information
Part VII—Plan Terminations & Transfers of Assets

Pension and Welfare Plans Required To File Annual Return/Report

All pension benefit plans and welfare benefit plans covered by ERISA must annually file a Form 5500 or Form 5500–SF unless they are eligible for a filing exemption. (Code section 6058 and ERISA sections 104 and 4065). An annual return/report must be filed even if the plan is not ''tax qualified,'' benefits no longer accrue, contributions were not made during this plan year, or contributions are no longer made. Pension benefit plans required to file include both defined benefit plans and defined contribution plans. Profit

sharing, stock bonus, money purchase, 401(k) plans, Code section 403(b) plans and IRA plans established by an employer are among the pension benefit plans for which an annual return/report must be filed. Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay, disability, etc.

Plans Exempt From Filing

The DOL has issued regulations under which some pension plans and many welfare plans with fewer than 100 participants are exempt from filing an annual return/report. Do not file a Form 5500–SF for an employee benefit plan that is any of the following:

1. A welfare plan that covers fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded. For this purpose:

a. An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or the employee organization that sponsors the plan.

Note: Plans which are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the plan year.

b. A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or organization forwards within 3 months of receipt). The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that is qualified to do business in any state.

c. A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare plan that provides medical benefits as in a above and life insurance benefits as in b above. *See* 29 CFR 2520.104–20 and the DOL Technical Release 92–01.

Note: A ''voluntary employees' beneficiary association'' as used in Code section 501(c)(9) (''VEBA'') should not be confused with the employee organization or employer that establishes and/or maintains (i.e., sponsors) the welfare benefit plan.

2. An unfunded pension benefit plan or an unfunded or insured welfare benefit plan: (a) whose benefits go only to a select group of management or highly compensated employees, and (b) which meets the terms of 29 CFR 2520.104–23 (including the requirement that a registration statement be timely filed with DOL) or 29 CFR 2520.104–24.

3. Plans maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

4. An unfunded excess benefit plan.

5. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

6. A pension benefit plan maintained outside the United States primarily for the benefit of persons substantially all of whom are non-resident aliens.

7. An annuity or custodial account arrangement under Code section 403(b)(1) or (7) not established or maintained by an employer as described in DOL Regulation 29 CFR 2510.3–2(f).

8. A simplified employee pension (SEP) described in Code section 408(k) that conforms to the alternative method of compliance described in 29 CFR 2520.104–48 or 29 CFR 104–49. A SEP is a pension plan that meets certain minimum qualifications regarding eligibility and employer contributions.

9. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).

10. A church welfare plan under ERISA section 3(33).

11. A church pension plan if the pension plan did not elect coverage under Code section 410(d).

12. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–27.

13. An individual retirement account or annuity not considered a pension plan under 29 CFR 2510.3–2(d).

14. A governmental plan.

15. A welfare benefit plan that participates in a group insurance arrangement that files a return/report Form 5500 on its behalf. A group insurance arrangement generally is an arrangement that provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively bargained multiple-employer plan), fully insures one or more welfare plans of each participating employer, uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and uses a trust as the conduit for payment of premiums to the insurance company. For further details, *see* 29 CFR 2520.104–43.

16. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104–22.

17. A One-Participant (Owners and Their Spouses) Retirement Plan (generally referred to as a One-Participant Plan) that has elected to file a Form 5500–EZ or is exempt from filing the Form 5500–EZ. A one-participant plan is: (1) A plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a plan for a partnership that covers only the partners or the partners and the partners' spouses. *See* Specific Instructions for One-Participant Plans. One-participant plans may be eligible to file the Form 5500–SF electronically (*See* How to File—Electronic Filing Requirement instructions) or the paper Form 5500–EZ with the IRS. *See http://www.irs.gov/ep or call 1–877–829–5500.*

18. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–27.

For more information on plans that are exempt from filing an annual return/report, *see* the Instructions for Form 5500 Annual Return/Report of Employee Benefit Plan or call the EFAST Help Line at [number to be provided].

Who May File Form 5500–SF

If your plan is required to file an annual return/report, you may file the Form 5500–SF instead of the Form 5500 only if you meet all of the eligibility conditions listed below.

1. The plan (a) covered fewer than 100 participants at the beginning of plan year 2009, or (b) under 29 CFR 2520.103–1(d) was eligible to and filed as a small plan for plan year 2008 and did not cover more than 120 participants at the beginning of plan year 2009 (*see* instructions for line 5);

TIP: If a Code section 403(b) plan would have been eligible to file as a small plan under 29 CFR 2520.103–1(d) in 2008 (i.e., the plan was eligible to file in the previous year under the small plans requirements and has a participant count of less than 121 at the beginning of the 2009 plan year), then it can rely on 29 CFR 2520.103–1(d) to file as a small plan in 2009.

2. The plan does not hold any employer securities at any time during the plan year;

3. At all times during the plan year, the plan is 100% invested in certain secure, easy to value assets such as mutual fund shares, investment contracts with insurance companies and banks valued at least annually, publicly traded securities held by a registered broker dealer, cash and cash equivalents, and plan loans to participants (*see* the instructions for line 6a);

4. The plan is eligible for the waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46 (but not by reason of enhanced bonding), which requirement includes, among others, giving certain disclosures and supporting documents to participants and beneficiaries regarding the plan's investments (*see* instructions for line 6b); and

5. The plan is not a multiemployer plan.

Note: Employee stock ownership plans (ESOPs) and Direct Filing Entities (DFEs) may not file the Form 5500–SF.

TIP: Section III of Schedule D must be completed by DFEs for all participating plans even those plans filing the Form 5500–SF.

Note: One-participant plans should follow the ''Specific Instructions for One-Participant Plans'' in lieu of the instructions 1–5 above.

CAUTION: One-participant plans that are ESOPs cannot file the Form 5500–SF electronically. These plans must file the paper Form 5500–EZ with the IRS.

What To File

Plans required to file an annual return/report that meet all of the conditions for filing the Form 5500–SF may complete and file the Form 5500–SF in accordance with its instructions. Single-employer Defined Benefit pension plans using the Form 5500–SF must also file the Schedule SB (Form 5500), Single-Employer Defined Benefit Plan Actuarial Information (Schedule SB). Money Purchase plans amortizing a waiver using the Form 5500–SF must also file the Schedule MB (Form 5500), Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information (Schedule MB). *See* the instructions for Schedules SB and MB. One-participant plans *see* Specific Instructions for One-Participant Plans. Plans filing under an extension of time or the DOL's Delinquent Filer Voluntary Compliance Program must retain the required supporting documentation with their records (*see* instructions for box C). No other schedules or attachments have to be filed with the Form 5500–SF.

When To File

File the 2009 Form 5500–SF for plan years that began in 2009. The form, and any required schedules and attachments, must be filed by the last day of the 7th calendar month after the end of the plan year (not to exceed 12 months in length) that began in 2009.

Note: If the filing due date falls on a Saturday, Sunday, or Federal holiday, the return may be filed on the next day that is not a Saturday, Sunday, or Federal holiday.

Extension of Time To File

Using Form 5558

If filing under an extension of time based on the filing of an IRS Form 5558, Application For Extension Of Time To File Certain Employee Plan Returns (Form 5558), check the appropriate box on the Form 5500–SF, Part I, item C. A one-time extension of time to file the Form 5500–SF (up to 2½ months) may be obtained by filing IRS Form 5558 on or before the normal due date (not including any extensions) of the annual return/report. You must file the Form 5558 with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201–0027. A copy of the completed extension request must be retained with the filer's records.

Using Extension of Time To File Federal Income Tax Return

An automatic extension of time to file Form 5500 until the due date of the Federal income tax return of the employer will be granted if all of the following conditions are met: (1) The plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its Federal tax return to a date later than the normal due date for filing the Form 5500; and (3) a copy of the application for extension of time to file the Federal income tax return is maintained with the filer's records. An extension of time granted by using this automatic extension procedure CANNOT be extended further by filing a Form 5558, nor can it be extended beyond a total of 9½ months beyond the close of the plan year.

Note: An extension of time to file the Form 5500–SF Return/Report described in this section does not operate as an extension of time to file the PBGC Form 1.

Other Extensions of Time

The IRS, DOL, and PBGC may announce special extensions of time under certain circumstances, such as extensions for presidentially declared disasters or for service in, or in support of, the Armed Forces of the United States in a combat zone. *See http://www.irs.gov* and *http://www.efast.dol.gov* for announcements regarding such special extensions. If you are relying on one of these announced special extensions, check the appropriate box on the Form 5500–SF, Part I, Line C and enter a brief citation to the announcement for the extension in the space provided. For example, indicate ''Disaster Relief Extension'' or ''Combat Zone Extension.''

Delinquent Filer Voluntary Compliance (DFVC) Program

The DFVC Program facilitates voluntary compliance by plan administrators who are delinquent in filing annual return/report forms under Title I of ERISA by permitting administrators to pay reduced civil penalties for voluntarily complying with their DOL annual reporting obligations. If the Form 5500–SF is being filed under the DFVC Program, check the appropriate box on Form 5500–SF. *See http://www.efast.dol.gov* for information concerning the DFVC Program. Do not submit penalty payments to EFAST.

Change in Plan Year

Generally, only defined benefit pension plans need to get approval for a change in plan year. (*See* Code section 412(c)(5)). However, under Rev. Proc. 87–27, 1987–1 C.B. 769, these pension plans may be eligible for automatic approval of a change in plan year.

If a change in plan year for a pension or a welfare plan creates a short plan year, file the form and applicable schedules by the last day of the 7th month after the short plan year ends. Fill in the short plan year beginning and ending dates in the space provided and check the appropriate box in Part I, Line B of the Form 5500–SF. For purposes of this return/report, the short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also see the instructions for Final Return/Report to determine if ''the final return/report'' in Line B should be checked.

Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL and the IRS, respectively, to assess or impose penalties for not giving complete information and for not filing statements and returns/reports. Certain penalties are administrative (i.e., they may be imposed or assessed in an administrative proceeding by one of the governmental agencies delegated to

administer the collection of the Form 5500–SF data). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. Generally, whether the penalty is assessed under ERISA or the Code, or both, depends upon the agency for which the information is required to be filed. One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,100 a day for each day a plan administrator fails or refuses to file a complete report. *See* ERISA section 502(c)(2) and 29 CFR 2560.502c–2.

2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, trusts, and annuities, and bond purchase plans by the due date(s). *See* Code section 6652(e).

3. A penalty of $1,000 for not filing an actuarial statement. *See* Code section 6692.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $100,000 or imprisoned not more than 10 years, or both. *See* ERISA section 501.

2. A penalty up to $10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. *See* section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How To File—Electornic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST), you must file your 2009 Form 5500–SF electronically. You may file your 2009 Form 5500–SF on-line, using EFAST's web-based filing system, or you may file through an EFAST-approved vendor. Detailed information on electronic filing is available at (insert web address). For telephone assistance, call the EFAST Help Line at [number to be provided]. The EFAST Help Line is available Monday through Friday from 8 a.m. to 8 p.m., Eastern Time.

CAUTION: Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the DOL to the public pursuant to ERISA sections 104 and 106. Even though the Form 5500–SF must be filed electronically, the administrator must keep a copy of the Form 5500–SF, including schedules and attachments, with all required manual signatures on file as part of the plan's records and must make a paper copy available on request to participants, beneficiaries, and the DOL as required by section 104 of ERISA and 29 CFR 2520.103–1.

Answer all questions with respect to the plan year unless otherwise explicitly stated in the instructions or on the form itself. Therefore, responses usually apply to the year entered at the top of the first page of the form.

Your entries will be screened. Your entries must satisfy this screening in order to be filed. Once filed, your form may be subject to further detailed review, and your filing may be rejected based upon this further review. To reduce the possibility of correspondence and penalties:

- Complete all lines on the Form 5500–SF unless otherwise specified. Also complete or electronically attach, as required, any applicable schedules and attachments.
- Do not enter ''N/A'' or ''Not Applicable'' on the Form 5500–SF or Schedules SB/MB unless specifically permitted. ''Yes'' or ''No'' questions on the forms and schedules cannot be left blank, but must be answered either ''Yes'' or ''No,'' and not both.

The Form 5500–SF, Schedules SB/MB, and any attachments are open to public inspection, and the contents are public information subject to publication on the Internet. Do not enter social security numbers in response to questions asking for an employer identification number (EIN). Because of privacy concerns, the inclusion of a social security number on the Form 5500–SF or on a schedule or attachment that is open to public inspection may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web site at *http://www.irs.gov*. The EBSA does not issue EINs.

Signature and Date

The Form 5500–SF Annual Return/Report and any applicable schedules must be signed and dated. The administrator is required under ERISA to maintain a copy of the annual report with all required signatures, as part of the plan's records, even though the return/report is filed electronically. *See* 29 CFR 2520.103–1.

Electronic signatures on annual returns/reports filed under EFAST2 are affected by the applicable statutory and regulatory requirements. Information on those requirements will be made available for electronic filing under EFAST2.

Specific Instructions for One-Participant Plans

A one-participant plan is: (1) A pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses. One-participant plans may be eligible to file an abbreviated version of the Form 5500–SF electronically or the paper Form 5500–EZ with the IRS.

One-participant plan filers that meet the following conditions are eligible to file an abbreviated Form 5500–SF electronically:

1. The plan is a one-participant plan.

2. The plan meets the minimum coverage requirements of section 410(b) without being combined with any other plan you may have that covers other employees of your business.

3. The plan does not provide benefits for anyone except you, or you and your spouse, or one or more partners and their spouses.

4. The plan does not hold any employer securities.

If you do not meet all the conditions listed above, you must file either the complete Form 5500–SF or the Form 5500–EZ. If you do not meet the fourth condition, you are not eligible to file the Form 5500–SF and must file the complete Form 5500–EZ.

One-participant plans complete only the following questions on the Form 5500–SF: Part I items A, B and C, Part II lines 1a–5a, Part III lines 7a–c, 8a, Part IV line 9a, Part V line 10g, Part VI lines 11–12e.

Note: A Form 5500–SF may be filed for one-participant plans that are either defined contribution plans (which include profit-sharing and money purchase pension plans, but not an ESOP or stock bonus plan) or defined benefit plans.

Note: Actuaries of one-participant plans that are defined benefit plans subject to the minimum funding standards for this plan year must complete Schedule SB and forward the completed Schedule SB to the person responsible for filing the Form 5500–SF. The completed Schedule SB is subject to the

records retention provisions of these instructions. *See* the instruction for Schedule SB.

Note: If you are filing a paper form, you must file the Form 5500–EZ with the IRS (address to be added). You may order the paper Form 5500–EZ by calling 1–800–TAX–FORM (1–800–829–3676).

Note: If you are filing an amendment for a one-participant plan that filed a Form 5500–SF electronically, you must submit the amendment using the Form 5500–SF electronically as well. Similarly, if you are filing an amendment for a one-participant plan that previously filed on a paper Form 5500–EZ, you must submit the amendment using the paper Form 5500–EZ with the IRS.

Specific Line by Line Instructions

Part I—Annual Report Identification Information

Box A—Single-Employer Plan. Check this box if the Form 5500–SF is filed for a single-employer plan. A single-employer plan for purposes of the Form 5500–SF is an employee benefit plan maintained by one employer or one employee organization.

Box A—Multiple-Employer Plan. Check this box if the Form 5500–SF is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not a multiemployer plan. Multiple-employer plans can be collectively bargained and collectively funded, but if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3), and have not revoked that election, or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G). Participating employers do not file individually for multiple-employer plans. Do not check this box if the employers maintaining the plan are members of the same controlled group.

CAUTION: Multiemployer plans cannot use the Form 5500–SF to satisfy their annual reporting obligations. They must file the Form 5500. For these purposes, a plan is a multiemployer plan if: (a) More than one employer is required to contribute; (b) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer; and (c) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made. A plan that made a proper election under ERISA section 3(37)(G) and Code section 414(f)(6) on or before Aug. 17, 2007, is also a multiemployer plan.

Box A—One-Participant Plan. Check this box if the Form 5500–SF is being filed for a plan that is: (1) A pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners, or the partners and the partners' spouses. *See* Specific Instructions for One-Participant Plans.

Box B—First Annual Return/Report. Check this box if an annual return/report has not been previously filed for this plan. For the purpose of completing box B, the Form 5500–EZ is not considered an annual return/report.

Box B—Amended Return/Report. Check this box if you have already filed for the 2009 plan year and are now filing an amended return to correct errors and/or omissions on the previously filed return/report.

Note: File an amended return/report to correct errors and/or omissions in a previously filed annual return/report for the 2009 plan year. The amended Form 5500–SF and any amended schedules must conform to the requirements in these instructions. If you need to file an amended return/report to correct errors and or omissions in a previously filed annual return/report for the 2009 plan year AND you are eligible to file the Form 5500–SF, you may use the Form 5500-SF even if the original filing was a Form 5500. If you determine that you were not eligible to file the Form 5500–SF, your amended return/report must be the Form 5500.

Box B—Final Return/Report. Check this box if this is the final report for the plan. Only check this box if all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or legally transferred to the control of another plan, and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied. Do not mark final return/report if you are reporting participants and/or assets at the end of the plan year. If a trustee is appointed for a terminated defined benefit plan pursuant to ERISA section 4042, the last plan year for which a return/report must be filed is the year in which the trustee is appointed.

Examples

Mergers/Consolidations

A final return/report should be filed for the plan year (12 months or less) that ends when all plan assets were legally transferred to the control of another plan.

Pension and Welfare Plans That Terminated Without Distributing All Assets

If the plan was terminated but all plan assets were not distributed, a return/report must be filed for each year the plan has assets. The return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's assets/property.

Welfare Plans Still Liable To Pay Benefits

A welfare plan cannot file a final return/report if the plan is still liable to pay benefits for claims that were incurred prior to the termination date, but not yet paid. *See* 29 CFR 2520.104b–2(g)(2)(ii).

Box B—Short Plan Year. Check this box if this form is filed for a period of less than 12 months. Show the dates in the space provided.

Box C. Check the appropriate entry here if:

- You filed for an extension of time to file this form with the IRS using a completed Form 5558, Application for Extension of Time To File Certain Employee Plan Returns (maintain a copy of the Form 5558 with the filer's records).
- You are filing using the automatic extension of time to file the Form 5500 Return/Report until the due date of the Federal income tax return of the employer (maintain a copy of the employer's extension of time to file the income tax return with the filer's records).
- You are filing using a special extension of time to file the Form 5500 Return/Report that has been announced by the IRS, DOL, and PBGC. If you checked that you are using a special extension of time, enter a description of the extension of time in the space provided.

Part II—Basic Plan Information

Line 1a. Enter the formal name of the plan or enough information to identify the plan. Abbreviate if necessary. If an annual return/report has previously been filed on behalf of the plan, regardless of the type of Form that was filed (Form 5500, Form 5500-EZ, Form 5500-SF) use the same abbreviation as was used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated.

Line 1b. Enter the three-digit plan or entity number (PN) that the employer or

plan administrator assigned to the plan. This three-digit number, in conjunction with the employer identification number (EIN) entered on line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan.

Start at 001 for plans providing pension benefits. Start at 501 for welfare plans. Do not use 888 or 999.

Once you use a plan number, continue to use it for that plan on all future filings with the IRS, DOL, and PBGC. Do not use it for any other plan, even if the first plan is terminated.

For each Form 5500–SF with same EIN (line 2b), when	Assign PN
Codes are entered in line 9a.	• 001 to the first plan. • Consecutively number others as 002, 003 . . .
Codes are entered in line 9b, and not in line 9a. • Consecutively number others at 502, 503 . . .	• 501 to the first plan.

Line 1c. Enter the date the plan first became effective.

Line 2a. Enter the plan sponsor's (employer, if for a single-employer plan) name, postal address (only use a P.O. Box number if the Post Office does not deliver mail to the employer's street address), foreign routing code where applicable, and D/B/A (doing business as) or trade name of the employer if different from the employer's name.

Note: In the case of a multiple-employer plan, if an association or similar entity is not the sponsor, enter the name of a participating employer as sponsor. A plan of a controlled group of corporations should enter the name of one of the sponsoring members. In either case, the same name must be used in all subsequent filings of the Form 5500 Return/Report for the multiple-employer plan or controlled group (see instructions to line 4 concerning change in sponsorship).

Line 2b. Enter the employer's nine-digit employer identification number (EIN). Do not use a Social Security Number. The Form 5500–SF is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a Social Security Number on this line may result in the rejection of the filing.

Employers who do not have an EIN must apply for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

A multiple-employer plan or plan of a controlled group of corporations should use the EIN of the sponsor identified in line 2a. The EIN must be used in all subsequent filings of the Form 5500–SF (or any subsequent Form 5500 in a year where the plan is not eligible to file the Form 5500–SF) for these plans. (*See* instructions to line 4 concerning change in EIN).

Note: EINs for funds (trusts or custodial accounts) associated with plans are generally not required to be furnished on the Form 5500–SF. The IRS, however, will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS–4 as explained above. Plan sponsors should use the trust EIN when opening a bank account or conducting other transactions for a trust.

Line 2c. Enter the telephone number for the plan sponsor.

Line 2d. Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a. Enter the plan administrator's name, postal address (only use a P.O. Box number if the Post Office does not deliver mail to the employer's street address), and foreign routing code where applicable. Enter ''Same'' if the plan administrator identified on line 3 is the same as the plan sponsor identified on line 2.

Plan administrator for this purpose means:

- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by regulations if an administrator is not designated and a plan sponsor cannot be identified.

Line 3b. Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500–SF reporting. If the plan administrator does not have an EIN, it must apply for one as explained in the instructions for line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Note: Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must obtain an EIN.

Line 3c. Enter the telephone number for the plan administrator.

Line 4. If the plan sponsor's name and/or EIN have changed since the last annual return/report was filed for this plan, enter the plan sponsor's name, EIN, and the plan number as it appeared on the last annual return/report filed.

CAUTION: Failure to indicate on line 4 that a plan was previously identified by a different EIN or PN could result in correspondence from the DOL and the IRS.

Line 5. Enter in element (a) the total number of participants at the beginning of the plan year. Enter in element (b) the total number of participants at the end of the plan year. Enter in element (c) the total number of participants with account balances as of the end of the plan year. Welfare plans and defined benefit plans do not complete element (c).

The description of ''participant'' in the instructions below is only for purposes of these lines.

An individual becomes a participant covered under an employee welfare benefit plan on the earliest of: the date designated by the plan as the date on which the individual begins participation in the plan; the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or the date on which the individual makes a contribution to the plan, whether voluntary or mandatory. *See* 29 CFR 2510.3–3(d)(1). This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. Covered dependents are not counted as participants. A child who is an ''alternate recipient'' entitled to health benefits under a qualified medical child support order (QMCSO) should not be counted as a participant for line 5. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and is not designated by the plan as a participant. *See* 29 CFR 2510.3–3(d)(2).

TIP: Before counting the number of participants, especially in a welfare plan, it is important to determine whether the plan sponsor has established one or more plans for Form 5500/Form 5500–SF reporting purposes. As a matter of plan design, plan sponsors can offer benefits through various structures and combinations. For example a plan sponsor could create (i) one plan providing major medical benefits, dental benefits, and vision

benefits, (ii) two plans with one providing major medical benefits and the other providing self-insured dental and vision benefits, or (iii) three separate plans. You must review the governing documents and actual operations to determine whether welfare benefits are being provided under a single plan or separate plans.

The fact that you have separate insurance policies for each different welfare benefit does not necessarily mean that you have separate plans. Some plan sponsors use a ''wrap'' document to incorporate various benefits and insurance policies into one comprehensive plan. In addition, whether a benefit arrangement is deemed to be a single plan may be different for purposes other than Form 5500–SF reporting. For example, special rules may apply for purposes of HIPAA, COBRA, and Internal Revenue Code compliance. If you need help determining whether you have a single welfare benefit plan for Form 5500–SF reporting purposes, you should consult a qualified benefits consultant or legal counsel.

For pension benefit plans, ''alternate payees'' entitled to benefits under a qualified domestic relations order (QDRO) are not to be counted as participants for this line.

For pension benefit plans, ''participant'' for this line means any individual who is included in one of the categories below:

1. Active participants, i.e., any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This includes any individuals who are eligible to elect to have the employer make payments into a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a ''cash-out'' distribution or deemed distribution of their entire nonforfeitable accrued benefit.

2. Retired or separated participants receiving benefits, i.e., individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

3. Other retired or separated participants entitled to future benefits, i.e., any individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Note: One-participant plans skip to Part III.

Line 6. Except for one-participant plans filing the Form 5500–SF in accordance with the instructions, to be eligible to file the Form 5500–SF, a pension or welfare plan must: (1) Cover fewer than 100 participants or be a pension plan eligible to file as a small plan under the 80 to 120 rule in 29 CFR 2520.103–1(d); (2) be eligible for the small plan audit waiver under 29 CFR 2520.104–46 (but not by virtue of enhanced bonding); (3) hold no employer securities; (4) have 100% of its assets in investments that have a readily determinable fair market value for purposes of this annual reporting requirement as described in 29 CFR 2520.103–1(c)(2)(ii)(C); and (5) must not be a multiemployer plan.

Line 6a. To be eligible to file the Form 5500–SF, all of the plan's assets must be ''eligible plan assets.'' Answer line 6a ''Yes'' or ''No.'' Do not leave this question blank. If the answer to line 6a is ''No'' you CANNOT file the Form 5500–SF and must file the Form 5500. *See* discussion under Who May File Form 5500–SF.

For purposes of this line, ''eligible plan assets'' are assets that have a readily determinable fair market value for purposes of this annual reporting requirement as described in 29 CFR 2520.103–1(c)(2)(ii)(C), are not employer securities, and are held or issued by one of the following regulated financial institutions: a bank or similar financial institution as defined in 29 CFR 2550.408b–4(c) (for example, banks, trust companies, savings and loan associations, domestic building and loan associations, and credit unions); an insurance company qualified to do business under the laws of a state; organizations registered as broker-dealers under the Securities Exchange Act of 1934; investment companies registered under the Investment Company Act of 1940; or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. Examples of assets that would qualify as eligible plan assets for this annual reporting purpose are: mutual fund shares; investment contracts with insurance companies or banks that provide the plan with valuation information at least annually; publicly traded stock held by a registered broker dealer; and cash and cash equivalents held by a bank. Participant loans meeting the requirements of ERISA section 408(b)(1) are also ''eligible plan assets'' for this purpose whether or not they have been deemed distributed.

Line 6b. In addition to all of the plan's assets being eligible plan assets as defined in line 6a, to be able to file the Form 5500–SF the plan also must be exempt from the requirement to be audited annually by an IQPA.

Welfare plans that cover fewer than 100 participants at the beginning of the plan year are exempt from the annual audit requirement. A pension plan is exempt from the annual audit requirement if it covered fewer than 100 participants at the beginning of the plan year or is eligible to file as a small plan under the 80 to 120 rule (described above) and meets the following three requirements for the audit waiver under 29 CFR 2520.104–46: (1) As of the end of the preceding plan year at least 95% of a small pension plan's assets were ''qualifying plan assets;'' (2) the plan includes the required audit waiver disclosure in the Summary Annual Report (SAR), or, in the case of plans subject to section 101(f) of the Act, the annual funding notice (described in § 2520.101–5), furnished to participants and beneficiaries (*see* 29 CFR 2520.104–46 and 2520.104b–10(d)(3) for a model audit waiver disclosure); and (3) in response to a request from any participant or beneficiary, the plan administrator must furnish without charge copies of statements from the regulated financial institutions holding or issuing the plan's ''qualifying plan assets.''

''Qualifying plan assets'' for the purpose of determining whether the plan is exempt from the requirement to be audited annually by an IQPA include: shares issued by an investment company registered under the Investment Company Act of 1940 (*e.g.*, mutual fund shares); investment and annuity contracts issued by any insurance company qualified to do business under the laws of a state; participant loans meeting the

requirements of ERISA section 408(b)(1), whether or not they have been deemed distributed, and any eligible assets, *e.g.*, publicly traded stocks and bonds, held by banks or similar financial institutions, including trust companies, savings and loan associations, domestic building and loan associations, and credit unions; insurance companies qualified to do business under the laws of a state; organizations registered as broker-dealers under the Securities Exchange Act of 1934; investment companies registered under the Investment Company Act of 1940; or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. In the case of an individual account plan, ''qualifying plan assets'' also include any assets in the individual account of a participant or beneficiary over which the participant or beneficiary had the opportunity to exercise control and with respect to which the participant or beneficiary has been furnished, at least annually, a statement from one of the above regulated financial institutions describing the plan assets held or issued by the institution and the amount of such assets.

CAUTION: In order to be able to file the Form 5500–SF, a small plan must meet the audit waiver conditions by virtue of having 95% or more of its assets as qualifying plan assets in accordance with 29 CFR 2520.104–46(b)(1)(i)(A)(1). If the small plan satisfies the conditions of the audit waiver by virtue of having enhanced fidelity bond under 29 CFR 2520.104–46(b)(1)(i)(A)(2), the plan does not satisfy the conditions for filing the Form 5500–SF and must file the Form 5500, along with the appropriate schedules and attachments. Also, many ''qualifying plan assets'' for audit waiver purposes will also be ''eligible plan assets'' as described in the instructions for line 6a, but the definitions are not the same. For example, real estate held by a bank as trustee for a plan could be a qualifying plan asset for purposes of the small pension plan audit waiver conditions but it would not be a ''eligible plan asset'' for purposes of the plan being eligible to file the Form 5500–SF because real estate would not have a readily determinable fair market value as described in described in 29 CFR 2520.103–1(c)(2)(ii)(C).

Part III—Financial Information

Note: The cash, modified cash, or accrual basis may be used for recognition of transactions in Parts I and II, as long as you use one method consistently. Round off all amounts reported on the Form 5500–SF to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination. *See* ERISA section 3(26).

Line 7—Plan Assets and Liabilities.

Amounts reported on line 7a, 7b, and 7c for the beginning of the plan year must be the same as reported for the end of the plan year for the corresponding lines on the return/report for the preceding plan year. That means that if the Form 5500 was filed for plan year 2008, the amounts reported on the Form 5500–SF line 7a, column (a), 7b, column (a), and 7c, column (a) should correspond to the amounts entered in line 1a, column (b), 1b, column (b), and 1c, column (b) of the 2008 Schedule I (Form 5500) or the amounts entered in line 1f, column (b), 1k, column (b), and 1l, column (b) of the 2008 Schedule H (Form 5500), whichever schedule was filed.

Line 7a. Enter the total amount of plan assets at the beginning of the plan year in column (a). Do not include contributions designated for the 2009 plan year in column (a).

Enter the total amount of plan assets at the end of the plan year in column (b). Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)-1, if both the following circumstances apply: (1) Under the plan, the participant loan is treated as a direct investment solely of the participant's individual account; and (2) as of the end of the plan year, the participant is not continuing repayment under the loan.

If the deemed distributed participant loan is included in column (a) and both of these circumstances apply, include the value of the loan as a deemed distribution on line 8e. However, if either of these two circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included in column (b) without regard to the occurrence of a deemed distribution.

After a participant loan that has been deemed distributed is included in the amount reported on line 8e, it is no longer to be reported as an asset on line 7a unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulation section 1.411(a)-7(d)(5). *See* Q&As 12 and 19 of Treasury Regulation section 1.72(p)-1.

The entry on line 7a, column (b) (plan assets at end of year) must include the current value of any participant loan included as a deemed distribution in the amount reported for any earlier year if, during the plan year, the participant resumes repayment under the loan. In addition, the amount to be entered on line 8e must be reduced by the amount of the participant loan reported as a deemed distribution for the earlier year.

Line 7b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to participants. The amount to be entered in line 7b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid (including all incurred but not reported welfare benefit claims);

2. Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid; and

3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 7c. Enter the net assets as of the beginning and end of the plan year. (Subtract line 7b from 7a). Line 7c, column (b) must equal the sum of line 7c, column (a), plus lines 8i (net income (loss)) and 8j (transfers to (from) the plan).

Line 8—Income, Expenses, and Transfers for this Plan Year

Line 8a. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Line 8a(1). Plans using the accrual basis of accounting must not include contributions designated for years before the 2009 plan year on line 8a(1).

Line 8a(2). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension plans, participant contributions, for purposes of this item, also include elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 8a(3). Enter the current value, at date contributed, of all other contributions, including rollovers from other plans.

Line 8b. Enter all other plan income for the plan year. Do not include transfers from other plans that are reported on line 8j. Examples of other income received and/or receivable include:

1. Interest on investments (including money market accounts, sweep accounts, etc.)

2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)

3. Net gain or loss from the sale of assets.

4. Other income such as unrealized appreciation (depreciation) in plan assets.

Line 8c. Enter the total of all cash contributions (line 8a(1) through 8a(3)) and other plan income (line 8b) during the plan year. If entering a negative number, enter a minus sign ''–'' to the left of the number.

Line 8d. Include (1) payments made (and for accrual basis filers payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance). Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(E)); (2) payments to insurance companies and similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations for the provision of plan benefits (*e.g.*, paid-up annuities, accident insurance, health insurance, vision care, dental coverage, etc.); and (3) payments made to other organizations or individuals providing benefits. Generally, these payments discussed in (3) are made to individual providers of welfare benefits such as legal services, day care services, and training and apprenticeship services. If securities or other property are distributed to plan participants or beneficiaries, include the current value of the date of distribution.

Line 8e. Include on this line all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under Code section 401(k)(8), and excess aggregate contributions under Code section 401(m)(6). Include allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or returned to employees during the plan year in accordance with Treasury Regulation section 1.415–6(b)(6)(iv), as well as any attributable gains that were also distributed.

For line 8e, also include in the total amount a participant loan included in line 7a, column (a) that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan should not be included in the total on line 8e. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included on lines 7a, column (b) (plan assets—end of year), and 10j (participant loans—end of year), without regard to the occurrence of a deemed distribution.

Note: The amount to be reported on line 8e must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on line 2g of Schedule H or Schedule I of a prior Form 5500 or line 8e of a prior Form 5500–SF for any earlier year. The amount of the required reduction is the amount of the participant loan that was reported as a deemed distribution on such line for any earlier year. If entering a negative number, enter a minus sign ''–'' to the left of the number. The current value of the participant loan must then be included in line 7a, column (b) (plan assets—end of year).

Although certain participant loans deemed distributed are to be reported on line 8e, and are not to be reported on the Form 5500–SF or on the Schedule H or Schedule I of the Form 5500 as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. *See* Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

Line 8f. The amount to be reported for expenses involving administrative service providers (salaries, fees, and commissions) include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;

2. Fees and expenses for accounting, actuarial, legal, investment management, investment advice, and securities brokerage services;

3. Contract administrator fees; and

4. Fees and expenses for individual plan trustees, including reimbursement for travel, seminars, and meeting expenses.

Line 8g. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan, including among others office supplies and equipment, telephone, and postage.

Line 8h. Enter the total of all benefits paid or due reported on lines 8d and 8e and all other plan expenses reported on lines 8f and 8g during the year.

Line 8i. Subtract line 8h from line 8c.

Line 8j. Enter the net value of all assets transferred to and from the plan during the plan year including those resulting from mergers and spin-offs. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Transfers out at the end of the year should be reported as occurring during the plan year.

Note: A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., should not be included on line 8j but must be included in benefit payments reported on Line 8d. Do not submit IRS Form 1099–R with the Form 5500–SF.

Part IV—Plan Characteristics

Line 9. Enter in lines 9a and 9b, as appropriate, in the boxes provided all applicable plan characteristic codes that describe the characteristics of the plan being reported.

LIST OF PLAN CHARACTERISTIC CODES FOR FORM 550–SF LINES 9A AND 9B

Code	
	Defined Benefit Pension Features
1A	Benefits are primarily pay related.
1B	Benefits are primarily flat dollar (includes dollars per year of service).
1C	Cash balance or similar plan " Plan has a "cash balance" formula. For this purpose, a "cash balance" formula is a benefit formula in a defined benefit plan by whatever name (e.g., personal account plan, pension equity plan, life cycle plan, cash account plan, etc.) that rather than, or in addition to, expressing the accrued benefit as a life annuity commencing at normal retirement age, defines benefits for each employee in terms more common to a defined contribution plan such as a single sum distribution amount (e.g., 10 percent of final average pay times years of service, or the amount of the employee's hypothetical account balance).
1D	Floor offset plan " Plan benefits are subject to offset for retirement benefits provided by an employer-sponsored defined contribution plan.
1E	Code section 401(h) arrangement " Plan contains separate accounts under Code section 401(h) to provide employee health benefits.
1F	Code section 414(k) arrangement " Benefits are based partly on the balance of the separate account of the participant (also include appropriate defined contribution pension feature codes).
1G	Covered by PBGC " Plan is covered under the PBGC insurance program (*see* ERISA section 4021).
1H	Plan covered by PBGC that was terminated and closed out for PBGC purposes—Before the end of the plan year (or a prior plan year), (1) the plan terminated in a standard (or distress) termination and completed the distribution of plan assets in satisfaction of all benefit liabilities (or all ERISA Title IV benefits for distress termination); or (2) a trustee was appointed for a terminated plan pursuant to ERISA section 4042.
1I	Frozen Plan—As of the last day of the plan year, the plan provides that no participant will get any new benefit accrual (whether because of service or compensation).
	Defined Contribution Pension Features
2A	Age/Service Weighted or New Comparability or Similar Plan—Age/Service Weighted Plan: Allocations are based on age, service, or age and service. New Comparability or Similar Plan: Allocations are based on participant classifications and a classification(s) consists entirely or predominantly of highly compensated employees; or the plan provides an additional allocation rate on compensation above a specified threshold, and the threshold or additional rate exceeds the maximum threshold or rate allowed under the permitted disparity rules of Code section 401(l).
2B	Target benefit plan.
2C	Money purchase (other than target benefit).
2D	Offset plan " Plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer.
2E	Profit-sharing.
2F	ERISA section 404(c) plan—This plan, or any part of it, is intended to meet the conditions of 29 CFR 2550.404c–1.
2G	Total participant-directed account plan—Participants have the opportunity to direct the investment of all the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c–1 is intended to be met.
2H	Partial participant directed account plan—Participants have the opportunity to direct the investment of a portion of the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c–1 is intended to be met.
2I	Stock bonus.
2J	Code section 401(k) feature—A cash or deferred arrangement described in Code section 401(k) that is part of a qualified defined contribution plan that provides for an election by employees to defer part of their compensation or receive these amounts in cash.
2K	Code section 401(m) arrangement—Employee contributions are allocated to separate accounts under the plan or employer contributions are based, in whole or in part, on employee deferrals or contributions to the plan. Not applicable if plan is 401(k) plan with only QNECs and/or QMACs. Also not applicable if Code section 403(b)(1), 403(b)(7), or 408 arrangements/accounts annuities.
2L	Code section 403(b)(1) arrangement.
2M	Code section 403(b)(7) accounts.
2N	Code section 408 accounts and annuities.
2R	Participant-directed brokerage accounts provided as an investment option under the plan.
2S	Plan provides for automatic enrollment in plan that has employee contributions deducted from payroll.
2T	Total or partial participant-directed account plan—plan uses default investment account for participants who fail to direct assets in their account.
	Other Pension Benefit Features
3B	Plan covering Self-Employed Individuals.
3C	Plan not intended to be qualified—A plan not intended to be qualified under Code sections 401, 403, or 408.
3D	Master plan—A pension plan that is made available by a sponsor for adoption by employers; that is the subject of a favorable opinion letter; and for which a single funding medium (for example, a trust or custodial account) is established for the joint use of all adopting employers.
3E	Prototype plan—A pension plan that is made available by a sponsor for adoption by employers; that is the subject of a favorable opinion or notification letter; and under which a separate funding medium (for example, a separate trust or custodial account) is established for each participating employer.
3F	Plan sponsor(s) received services of leased employees, as defined in Code section 414(n), during the plan year.
3H	Plan sponsor(s) is (are) a member(s) of a controlled group (Code sections 414(b), (c), or (m)).
3J	U.S.-based plan that covers residents of Puerto Rico and is qualified under both Code section 401 and section 8565 of Puerto Rico Code.

LIST OF PLAN CHARACTERISTIC CODES FOR FORM 550–SF LINES 9A AND 9B—Continued

Code	
	Welfare Benefit Features
4A	Health (other than vision or dental).
4B	Life Insurance.
4C	Supplemental unemployment.
4D	Dental.
4E	Vision.
4F	Temporary disability (accident and sickness).
4G	Prepaid legal.
4H	Long-term disability.
4I	Severance pay.
4J	Apprenticeship and training.
4K	Scholarship (funded).
4L	Death benefits (include travel accident but not life insurance).
4P	Taft-Hartley Financial Assistance for Employee Housing Expenses.
4Q	Other.
4R	Unfunded, fully insured, or combination unfunded/fully insured welfare plan that will not file an annual report for next plan year pursuant to 29 CFR 2520.104–20.
4S	Unfunded, fully insured, or combination unfunded/fully insured welfare plan that stopped filing annual reports in an earlier plan year pursuant to 29 CFR 2520.104–20.
4T	10 or more employer plan under Code section 419A(f)(6).

Part V—Compliance Questions

Line 10. Answer all lines either ''Yes'' or ''No.'' Do not leave any answer blank. For items 10a, b, c, d, e, f, and g, if the answer is ''Yes,'' an amount must be entered.

Note: One-participant plans should only complete question 10g.

Line 10a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets. *See* 29 CFR 2510.3–102. Plans that check ''Yes'' must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions should be included on line 10a for the year in which the contributions were delinquent and should be carried over and reported again on line 10a for each subsequent year (or on line 4a of Schedule H or I of the Form 5500 if not eligible to file the Form 5500–SF in the subsequent year) until the year after the violation has been fully corrected by payment of the late contributions and reimbursement of the plan for lost earnings or profits. If no participant contributions were received or withheld by the employer during the plan year, answer ''No.''

An employer holding participant contributions commingled with its general assets after the earliest date on which such contributions can reasonably be segregated from the employer's general assets will have engaged in a prohibited use of plan assets (*see* ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (*see* Code section 4975(e)(2)), file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or on line 4d. *See* Advisory Opinion 2002–02A, available at *http://www.dol.gov/ebsa.*

Applicants that satisfy both the DOL Voluntary Fiduciary Correction Program (VFCP) and the conditions of Prohibited Transaction Exemption (PTE) 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the requirement to file the IRS Form 5330 with the IRS. For more information on how to apply under the VFCP, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations, *see* 71 FR 20261 (Apr. 19, 2006), and 71 FR 20135 (Apr. 19, 2006). All delinquent participant contributions must be reported on line 10a at least for the year in which they were delinquent even if violations have been fully corrected by the close of the plan year. Information about the VFCP is also available on the Internet at *http://www.dol.gov/ebsa.*

Line 10b. Plans that check ''Yes'' must enter the amount. Check ''Yes'' if any nonexempt transaction with a party-in-interest occurred. Do not check ''Yes'' with respect to transactions that are: (1) Statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); (4) the holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01; or (5) delinquent participant contributions reported on line 10a. You may indicate that an application for an administrative exemption is pending. If you are unsure whether a transaction is exempt or not, you should consult either with a qualified public accountant, legal counsel, or both. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, an IRS Form 5330 is required to be filed with the IRS to pay the excise tax on the transaction.

Non-exempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account.

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Party-in-Interest. For purposes of this form, party-in-interest is deemed to include a disqualified person. *See* Code section 4975(e)(2). The term ''party-in-interest'' means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of: (1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation; (2) the capital interest or the profits interest of a partnership; or (3) the beneficial interest of a trust or unincorporated enterprise which is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of: (1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in A, B, C, D, or E;

H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

TIP: Applicants that satisfy the VFCP requirements and the conditions of PTE 2002–51 (*see* the instructions for line 10a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions and from the requirement to file the Form 5330 with the IRS. For more information, *see* 71 FR 20261 (Apr. 19, 2006), and 71 FR 20135 (Apr. 19, 2006). When the conditions of PTE 2002–51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering line 10b.

Line 10c. Plans that check ''Yes'' must enter the aggregate amount of fidelity bond coverage for all claims. Check ''Yes'' only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond that is from an approved surety covering plan officials and that protects the plan from losses due to fraud or dishonesty as described in 29 CFR Part 2580. Generally, every plan official of an employee benefit plan who ''handles'' funds or other property of such plan must be bonded. Generally, a person shall be deemed to be ''handling'' funds or other property of a plan, so as to require bonding, whenever his or her other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR Part 2580 describe the bonding requirements, including the definition of ''handling'' (29 CFR 2580.412–6), the permissible forms of bonds (29 CFR 2580.412–10), the amount of the bond (29 CFR Part 2580, subpart C), and certain exemptions such as the exemption for certain banks and insurance companies and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412–23). Information concerning the list of approved sureties and reinsurers is available on the Internet at *http://www.fms.treas.gov/c570.*

Note: Plans are permitted under certain conditions to purchase fiduciary liability insurance with plan assets. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and are not fidelity bonds reported in line 10c.

Line 10d. Check ''Yes'' if the plan suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If ''Yes'' is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

CAUTION: Willful failure to report is a criminal offense. *See* ERISA section 501.

Line 10e. If any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization) or if the plan has investments with insurance companies such as guaranteed investment contracts (GICs), report the total of all insurance fees and commissions paid to agents, brokers and/or other persons directly or indirectly attributable to the contract(s) placed with or retained by the plan.

For purposes of line 10e, commissions and fees include sales or base commissions and all other monetary and non-monetary forms of compensation where the broker's, agent's, or other person's eligibility for the payment or the amount of the payment is based, in whole or in part, on the value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by an ERISA plan, including, for example, persistency and profitability bonuses. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported. Insurers must provide plan administrators with a proportionate allocation of commissions and fees attributable to each contract. Any reasonable method of allocating commissions and fees to policies or contracts is acceptable, provided the method is disclosed to the plan administrator. A reasonable allocation method could allocate fees and commissions based on a calendar year calculation even if the plan year or policy year was not a calendar year. For additional information on these reporting requirements, see ERISA Advisory Opinion 2005–02A, available on the Internet at *http://www.dol.gov/ebsa*.

Where (1) benefits under a plan have been purchased from and guaranteed by a licensed insurance company, insurance service, or other similar organization, (2) the payments by the insurer to affiliates or third parties for performing administrative activities

were part of the insurer satisfying its contractual obligation to provide benefits under the plan, and (3) there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, the payments by the insurer to the affiliates or third parties do not need to be reported as ''fees and other commissions.''

Reporting is not required for compensation paid by the insurer to third parties for record keeping and claims processing services provided to the insurer as part of the insurer's administration of the insurance policy. Reporting also is not required for compensation paid by the insurer to a ''general agent'' or ''manager'' for that general agent's or manager's management of an agency or performance of administrative functions for the insurer. For this purpose, (1) a ''general agent'' or ''manager'' does not include brokers representing insureds, and (2) payments would not be treated as paid for managing an agency or performance of administrative functions where the recipient's eligibility for the payment or the amount of the payment is dependent or based on the value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by ERISA plan(s).

Reporting is not required for occasional gifts or meals of insubstantial value which are tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. For this exemption to be available, the gift or gratuity must be both occasional and insubstantial. For this exemption to apply, the gift must be valued at less than $50, the aggregate value of gifts from one source in a calendar year must be less than $100, but gifts with a value of less than $10 do not need to be counted toward the $100 annual limit. If the $100 aggregate value limit is exceeded, then the aggregate value of all the gifts will be reportable. Gifts from multiple employees of one service provider should be treated as originating from a single source when calculating whether the $100 threshold applies. On the other hand, in applying the threshold to an occasional gift received from one source by multiple employees of a single service provider, the amount received by each employee should be separately determined in applying the $50 and $100 thresholds. For example, if six employees of a broker attend an business conference put on by an insurer designed to educate and explain the insurer's products for employee benefit plans, and the insurer provides, at no cost to the attendees, refreshments valued at $20 per individual, the gratuities would not be reportable on this line even though the total cost of the refreshments for all the employees would be $120. These thresholds are for purposes of line 10a reporting. Filers are cautioned that the payment or receipt of gifts and gratuities of any amount by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Important Reminder. The insurance company, insurance service, or other similar organization is required under ERISA section 103(a)(2) to provide the plan administrator with the information needed to complete this return/report. Your insurance company must provide you with the information you need to answer this question. If your insurance company, insurance service, or other similar organization does not automatically send you this information, you should make a written request for the information. If you have difficulty getting the information from your insurance company, contact the nearest office of the DOL's Employee Benefits Security Administration.

Line 10f. You must check ''Yes'' if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 10g. You must check ''Yes'' if the plan had any participant loans outstanding at any time during the plan year and enter the amount outstanding as of the end of the plan year. If no participant loans are outstanding as of the end of the plan year, enter ''0''.

Line 10h. Check ''Yes'' if there was a ''blackout period.'' A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A ''blackout period'' generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) Part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, *see* the DOL's regulation at 29 CFR 2520.101–3 (available at *http://www.dol.gov/ebsa*).

Line 10i. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? If so, check ''Yes.'' *See* 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Also, answer ''Yes'' if one of the exceptions to the notice requirement under 29 CFR 2520.101–3 applies.

Part VI—Pension Funding Compliance

Complete Part VI only if the plan is subject to the minimum funding requirements of Code section 412 or ERISA section 302.

All qualified defined benefit and defined contribution plans are subject to the minimum funding requirements of Code section 412 unless they are described in the exceptions listed under section 412(e)(2). These exceptions include profit-sharing or stock bonus plans, insurance contract plans described in section 412(e)(3), and certain plans to which no employer contributions are made.

Nonqualified employee pension benefit plans are subject to the minimum funding requirements of ERISA section 302 unless specifically exempted under ERISA sections 4(a) or 301(a).

The employer or plan administrator of a single-employer or multiple-employer defined benefit plan that is subject to the minimum funding requirements must file the Schedule SB as an attachment to the Form 5500–SF. Schedule MB is filed for multiemployer defined benefit plans and certain money purchase defined contribution plans (whether they are single or multiemployer plans). However, Schedule MB is not required to be filed for a money purchase defined contribution plan that is subject to the minimum funding requirements unless the plan is currently amortizing a waiver of the minimum funding requirements.

Line 11. If ''Yes'' is checked, you must attach Schedule SB (Form 5500). If this is a defined contribution pension plan,

leave the box blank . One-participant plans, however, do not attach Schedule SB to the Form 5500–SF. Instead one-participant plans keep the Schedule SB in accordance with the applicable records retention requirements.

Line 12. The ''Yes'' box should be checked if the plan is a defined contribution plan subject to the minimum funding requirements of Code section 412 and ERISA section 302. Those money purchase plans (including target benefit plans) that are amortizing a waiver of the minimum funding standard for a prior year should fill out line 12a and then skip to line 13. Those defined contribution plans answering ''Yes'' to the line 12 question that do not fill out line 12a should fill out lines 12b–12e.

Line 12a. If a money purchase defined contribution plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, complete lines 3, 9, and 10 of Schedule MB. *See* instructions for Schedule MB. Attach Schedule MB to the Form 5500–SF.

Line 12b. The minimum required contribution for a money purchase defined contribution plan for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 12c. Include all contributions for the plan year made not later than 8½ months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed. For example, do not include receivable contributions for this purpose.

Line 12d. If the minimum required contribution exceeds the contributions for the plan year made not later than 8½ months after the end of the plan year, the excess is an accumulated funding deficiency for the plan year. File IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing IRS Form 5330 on time.

Line 12e. Will the minimum required contribution remaining in 12d be made no later than 8½ months after the end of the plan year? If ''Yes,'' and contributions are actually made by this date, then there will be no reportable deficiency and Form 5330 will not need to be filed.

Part VII—Plan Terminations and Transfers of Assets

Line 13a. Check ''Yes'' if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If ''Yes'' is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter ''-0-'' if no reversion occurred during the current plan year.

CAUTION: A Form 5500 must be filed for each year the plan has assets, and, for a welfare benefit plan, if the plan is still liable to pay benefits for claims incurred before the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

IRS Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. *See* PBGC Form 10, Post-Event Notice of Reportable Events, and Form 10-Advance, Advance Notice of Reportable Events.

Line 13b. Check ''Yes'' if all of the plan assets (including insurance/annuity contracts) were distributed to the participants and beneficiaries, legally transferred to the control of another plan, or brought under the control of the PBGC.

Check ''No'' for a welfare benefit plan that is still liable to pay benefits for claims that were incurred before the termination date, but not yet paid. *See* 29 CFR 2520.104b-2(g)(2)(ii).

Line 13c. Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spin-offs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, EIN, and PN of the transferee plan(s) involved on lines 13c(1), (2), and (3). If you need additional space, include an attachment with the information required for lines 13c(1), (2), and (3) for each additional plan and label the attachment ''Form 5500–SF, line 13c—Additional Plans.''

Do not use a social security number in lieu of an EIN or include an attachment that contains visible social security numbers. The Form 5500–SF is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Form 5500–SF may result in the rejection of the filing.

Note: A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R should not be included on line 13c. Do not submit Form 1099–R with the Form 5500.

CAUTION: IRS Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. *See* PBGC Form 10, Post-Event Notice of Reportable Event, and Form 10—Advance, Advance Notice of Reportable Event.

ERISA Compliance Quick Checklist

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary, and it is not to be filed with your Form 5500–SF.

If you answer ''No'' to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports?

2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?

3. Do you respond to written participant inquiries for copies of plan documents and information within 30 days?

4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?

5. Is your plan covered by a fidelity bond against losses due to fraud or dishonesty?

6. Are the plan's investments diversified so as to minimize the risk of large losses?

7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?

8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks associated with plan investments before making the investments?

9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?

10. Did the plan pay participant benefits on time and in the correct amounts?

11. Did the plan give participants and beneficiaries 30 days advance notice before imposing a ''blackout period'' of at least three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to change their plan investments, obtain loans from the plan, or obtain distributions from the plan?

If you answer ''Yes'' to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official? (For example, has the plan made a loan to or participated in an investment with the employer?)

2. Has the plan official used the assets of the plan for his/her own interest?

3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Employee Benefits Security Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

Forms 5500, 5500–SF, and 5500–EZ Codes for Principal Business Activity

Note: The list of business codes published with the Form 5500 instructions will be included in the Short Form instructions and will be updated to reflect the North American Industry Classification System Update for 2007. *See* 70 FR 12390 (Mar. 11, 2005)

OMB CONTROL NUMBERS

Agency	OMB Number
Employee Benefits Security Administration	1210–0110
	1210–0089
Internal Revenue Service	1545–1610
Pension Benefit Guaranty Corporation	1212–0057

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA and in Code sections 6058(a), and 6059(a). You are required to give us the information. We need it to determine whether the plan is operating according to the law.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or its instructions must be retained as long as their contents may become material in the administration of the Internal Revenue Code or are required to be maintained pursuant to Title I or IV of ERISA. The Form 5500–SF returns/reports are open to public inspection and are subject to publication on the Internet.

The time needed to complete and file the form 5500–SF and the Schedules SB/MB reflects the combined requirements of the Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation. These times will vary depending on individual circumstances. The estimated average times are:

	Pension plans	Welfare plans
Form 5500–SF	2 hr., 32 min.	2 hr., 32 min.
Schedule SB	6 hr., 49 min.	N/A.
Schedule MB	3 hr., 20 min.	N/A.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW., IR–6526, Washington, DC 20224. DO NOT send any of these forms or schedules to this address. The forms and schedules must be filed electronically. *See* How to File—Electronic Filing Requirement.

Appendix C

[Insert photo pages of Form 5500 and Schedules A, SB, MB, C, D, G, H, I, and R, numbered on back of pages as 197–1 through 197–36]

BILLING CODE 4510–29–P

Form 5500	Annual Return/Report of Employee Benefit Plan	OMB Nos. 1210-0110 1210-0089
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), 6057(b), and 6058(a) of the Internal Revenue Code (the Code). ▶ **Complete all entries in accordance with the instructions to the Form 5500.**	**2009** **This Form is Open to Public Inspection**

Part I Annual Report Identification Information

For calendar plan year 2009 or fiscal plan year beginning and ending

A This return/report is for: ☐ a multiemployer plan; ☐ a multiple-employer plan; or ☐ a single-employer plan; ☐ a DFE (specify) ___

B This return/report is: ☐ the first return/report; ☐ the final return/report; ☐ an amended return/report; ☐ a short plan year return/report (less than 12 months).

C If the plan is a collectively-bargained plan, check here. . . . . ▶ ☐

D Check box if filing under: ☐ Form 5558; ☐ automatic extension; ☐ the DFVC program; ☐ special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan	**1b** Three-digit plan number (PN) ▶
	1c Effective date of plan
2a Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.)	**2b** Employer Identification Number (EIN)
	2c Sponsor's telephone number
	2d Business code (see instructions)

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE			
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same")	**3b** Administrator's EIN	
	3c Administrator's telephone number	

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:	**4b** EIN	
a Sponsor's name	**4c** PN	
5 Total number of participants at the beginning of the plan year	**5**	
6 Number of participants as of the end of the plan year (welfare plans complete only lines **6a, 6b, 6c,** and **6d**).		
a Active participants	**6a**	
b Retired or separated participants receiving benefits	**6b**	
c Other retired or separated participants entitled to future benefits	**6c**	
d Subtotal. Add lines **6a**, **6b**, and **6c**	**6d**	
e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits	**6e**	
f Total. Add lines **6d** and **6e**	**6f**	
g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	**6g**	
h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested	**6h**	
7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	**7**	

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

9a Plan funding arrangement (check all that apply)		**9b** Plan benefit arrangement (check all that apply)	
(1) ☐	Insurance	**(1)** ☐	Insurance
(2) ☐	Code section 412(e)(3) insurance contracts	**(2)** ☐	Code section 412(e)(3) insurance contracts
(3) ☐	Trust	**(3)** ☐	Trust
(4) ☐	General assets of the sponsor	**(4)** ☐	General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules		**b General Schedules**	
(1) ☐	**R** (Retirement Plan Information)	**(1)** ☐	**H** (Financial Information)
(2) ☐	**MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary	**(2)** ☐	**I** (Financial Information – Small Plan)
		(3) ☐ ___	**A** (Insurance Information)
		(4) ☐	**C** (Service Provider Information)
(3) ☐	**SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary	**(5)** ☐	**D** (DFE/Participating Plan Information)
		(6) ☐	**G** (Financial Transaction Schedules)

SCHEDULE A (Form 5500)	Insurance Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ **File as an attachment to Form 5500.** ▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).	**2009** **This Form is Open to Public Inspection**

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan	**B** Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500.	**D** Employer Identification Number (EIN)

Part I **Information Concerning Insurance Contract Coverage, Fees, and Commissions** Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1 Coverage Information:

(a) Name of insurance carrier

(b) EIN	(c) NAIC code	(d) Contract or identification number	(e) Approximate number of persons covered at end of policy or contract year	Policy or contract year	
				(f) From	(g) To

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in item 3 the agents, brokers, and other persons in descending order of the amount paid.

(a) Total amount of commissions paid	(b) Total amount of fees paid

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

Schedule A (Form 5500) 2009 Page **2** - ☐

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

Schedule A (Form 5500) 2009 Page 3

Part II Investment and Annuity Contract Information

Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

4	Current value of plan's interest under this contract in the general account at year end	4	
5	Current value of plan's interest under this contract in separate accounts at year end	5	

6 Contracts With Allocated Funds:

a State the basis of premium rates ▶ _____

b	Premiums paid to carrier	6b	
c	Premiums due but unpaid at the end of the year	6c	
d	If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount. Specify nature of costs ▶ _____	6d	

e Type of contract: (1) ☐ individual policies (2) ☐ group deferred annuity (3) ☐ other (specify) ▶ _____

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan check here ▶ ☐

7 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract: (1) ☐ deposit administration (2) ☐ immediate participation guarantee (3) ☐ guaranteed investment (4) ☐ other ▶ _____

b	Balance at the end of the previous year			7b	
c	Additions: (1) Contributions deposited during the year	7c(1)			
	(2) Dividends and credits	7c(2)			
	(3) Interest credited during the year	7c(3)			
	(4) Transferred from separate account	7c(4)			
	(5) Other (specify below) ▶ _____	7c(5)			
	(6) Total additions			7c(6)	
d	Total of balance and additions (add **b** and **c(6)**)			7d	
e	Deductions:				
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)			
	(2) Administration charge made by carrier	7e(2)			
	(3) Transferred to separate account	7e(3)			
	(4) Other (specify below) ▶ _____	7e(4)			
	(5) Total deductions			7e(5)	
f	Balance at the end of the current year (subtract **e(5)** from **d**)			7f	

Part III Welfare Benefit Contract Information

If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organizations(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8 Benefit and contract type (check all applicable boxes)

a ☐ Health (other than dental or vision) **b** ☐ Dental **c** ☐ Vision **d** ☐ Life insurance
e ☐ Temporary disability (accident and sickness) **f** ☐ Long-term disability **g** ☐ Supplemental unemployment **h** ☐ Prescription drug
i ☐ Stop loss (large deductible) **j** ☐ HMO contract **k** ☐ PPO contract **l** ☐ Indemnity contract
m ☐ Other (specify) ▶

9 Experience-rated contracts:				
a Premiums: (1) Amount received	9a(1)			
(2) Increase (decrease) in amount due but unpaid	9a(2)			
(3) Increase (decrease) in unearned premium reserve	9a(3)			
(4) Earned ((1) + (2) - (3))			9a(4)	
b Benefit charges (1) Claims paid	9b(1)			
(2) Increase (decrease) in claim reserves	9b(2)			
(3) Incurred claims (add (1) and (2))			9b(3)	
(4) Claims charged			9b(4)	
c Remainder of premium: (1) Retention charges (on an accrual basis) --				
(A) Commissions	9c(1)(A)			
(B) Administrative service or other fees	9c(1)(B)			
(C) Other specific acquisition costs	9c(1)(C)			
(D) Other expenses	9c(1)(D)			
(E) Taxes	9c(1)(E)			
(F) Charges for risks or other contingencies	9c(1)(F)			
(G) Other retention charges	9c(1)(G)			
(H) Total retention			9c(1)(H)	
(2) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)			9c(2)	
d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement			9d(1)	
(2) Claim reserves			9d(2)	
(3) Other reserves			9d(3)	
e Dividends or retroactive rate refunds due. (Do not include amount entered in c(2).)			9e	
10 Nonexperience-rated contracts:				
a Total premiums or subscription charges paid to carrier			10a	
b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, item 2 above, report amount.			10b	

Specify nature of costs ▶

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A? ☐ Yes ☐ No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

SCHEDULE MB (Form 5500)	Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6059 of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500 or 5500-SF.	2009 This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning and ending

▶ **Round off amounts to nearest dollar.**

▶ **Caution:** A penalty of $1,000 will be assessed for late filing of this report unless reasonable cause is established.

A Name of plan	**B** Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500 or 5500-SF	**D** Employer Identification Number (EIN)

E Type of plan: (1) ☐ Multiemployer Defined Benefit (2) ☐ Money Purchase (see instructions)

1a	Enter the valuation date: Month _____ Day _____ Year _____		
b	Assets		
	(1) Current value of assets	**1b(1)**	
	(2) Actuarial value of assets for funding standard account	**1b(2)**	
c	**(1)** Accrued liability for plan using immediate gain methods	**1c(1)**	
	(2) Information for plans using spread gain methods:		
	(a) Unfunded liability for methods with bases	**1c(2)(a)**	
	(b) Accrued liability under entry age normal method	**1c(2)(b)**	
	(c) Normal cost under entry age normal method	**1c(2)(c)**	
	(3) Accrued liability under unit credit cost method	**1c(3)**	
d	Information on current liabilities of the plan:		
	(1) Amount excluded from current liability attributable to pre-participation service (see instructions)	**1d(1)**	
	(2) "RPA '94" information :		
	(a) Current liability	**1d(2)(a)**	
	(b) Expected increase in current liability due to benefits accruing during the plan year	**1d(2)(b)**	
	(c) Expected release from "RPA '94" current liability for the plan year	**1d(2)(c)**	
	(3) Expected plan disbursements for the plan year	**1d(3)**	

Statement by Enrolled Actuary

To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

SIGN HERE		
	Signature of actuary	Date
	Type or print name of actuary	Most recent enrollment number
	Firm name	Telephone number (including area code)
	Address of the firm	

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions ☐

2 Operational information as of beginning of this plan year:

a Current value of the assets (see instructions)		**2a**	
b "RPA '94" current liability/participant count breakdown:		**(1)** Number of participants	**(2)** Current liability
(1) For retired participants and beneficiaries receiving payment			
(2) For terminated vested participants			
(3) For active participants:			
(a) Non-vested benefits			
(b) Vested benefits			
(c) Total active			
(4) Total			
c If the percentage resulting from dividing line 2a by line 2b(4), column (2), is less than 70%, enter such percentage	**2c**		%

3 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Date (MM-DD-YYYY)	(b) Amount paid by employer	(c) Amount paid by employee	(a) Date (MM-DD-YYYY)	(b) Amount paid by employer	(c) Amount paid by employee
			Totals ► 3(b)		3(c)

4 Information on plan status:

a Enter code to indicate plan's status (see instructions for attachment of supporting evidence of plan's status). If code is "N," go to item 5	**4a**	
b Funded percentage for monitoring plan's status (line 1b(2) divided by line 1c(3))	**4b**	%
c Is the plan making the scheduled progress with any applicable funding improvement or rehabilitation plan?		☐ Yes ☐ No
d If the plan is in critical status, were any adjustable benefits reduced?		☐ Yes ☐ No
e If line d is "Yes," enter the reduction in liability resulting from the reduction in adjustable benefits, measured as of the valuation date	**4e**	

5 Actuarial cost method used as the basis for this plan year's funding standard account computations (check all that apply):

a ☐ Attained age normal **b** ☐ Entry age normal **c** ☐ Accrued benefit (unit credit) **d** ☐ Aggregate
e ☐ Frozen initial liability **f** ☐ Individual level premium **g** ☐ Individual aggregate **h** ☐ Shortfall
i ☐ Reorganization **j** ☐ Other (specify):

k If box h is checked, enter period of use of shortfall method	**5k**	
l Has a change been made in funding method for this plan year?		☐ Yes ☐ No
m If line l is "Yes," was the change made pursuant to Revenue Procedure 2000-40?		☐ Yes ☐ No
n If line l is "Yes," and line m is "No," enter the date (MM-DD-YYYY) of the ruling letter (individual or class) approving the change in funding method	**5n**	

6 Checklist of certain actuarial assumptions:

a Interest rate for "RPA '94" current liability			**6a**	%
		Pre-retirement		Post-retirement
b Rates specified in insurance or annuity contracts		☐ Yes ☐ No ☐ N/A		☐ Yes ☐ No ☐ N/A
c Mortality table code for valuation purposes:				
(1) Males	**6c(1)**			
(2) Females	**6c(2)**			
d Valuation liability interest rate	**6d**	%		%
e Expense loading	**6e**	%		%
f Salary scale	**6f**	%		
g Estimated investment return on actuarial value of assets for year ending on the valuation date			**6g**	%
h Estimated investment return on current value of assets for year ending on the valuation date			**6h**	%

7 New amortization bases established in the current plan year:

(1) Type of base	(2) Initial balance	(3) Amortization Charge/Credit

8 Miscellaneous information:

a If a waiver of a funding deficiency has been approved for this plan year, enter the date (MM-DD-YYYY) of the ruling letter granting the approval	**8a**	
b Is the plan required to provide a Schedule of Active Participant Data? (See the instructions.) If "Yes," attach schedule.		☐ Yes ☐ No
c Are any of the plan's amortization bases operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d)(1) of the Code?		☐ Yes ☐ No
d If line c is "Yes," provide the following additional information:		
(1) Was an extension granted automatic approval under section 431(d)(1) of the Code?		☐ Yes ☐ No
(2) If line (1) is "Yes," enter the number of years by which the amortization period was extended	**8d(2)**	
(3) Was an extension approved by the Internal Revenue Service under section 412(e) (as in effect prior to 2008) or 431(d)(2) of the Code?		☐ Yes ☐ No
(4) If line (3) is "Yes," enter number of years by which the amortization period was extended (not including the number of years in line (2))	**8d(4)**	
(5) If line (3) is "Yes," enter the date of the ruling letter approving the extension	**8d(5)**	
(6) If line (3) is "Yes," is the amortization base eligible for amortization using interest rates applicable under section 6621(b) of the Code for years beginning after 2007?		☐ Yes ☐ No
e If box 5h is checked or line 8c is "Yes," enter the difference between the minimum required contribution for the year and the minimum that would have been required without using the shortfall method or extending the amortization base(s)	**8e**	

9 Funding standard account statement for this plan year:

Charges to funding standard account:			
a Prior year funding deficiency, if any			**9a**
b Employer's normal cost for plan year as of valuation date			**9b**
c Amortization charges as of valuation date:		Outstanding balance	
(1) All bases except funding waivers and certain bases for which the amortization period has been extended	**9c(1)**		
(2) Funding waivers	**9c(2)**		
(3) Certain bases for which the amortization period has been extended	**9c(3)**		
d Interest as applicable on lines 9a, 9b, and 9c			**9d**
e Total charges. Add lines 9a through 9d			**9e**
Credits to funding standard account:			
f Prior year credit balance, if any			**9f**
g Employer contributions. Total from column (b) of line 3			**9g**
		Outstanding balance	
h Amortization credits as of valuation date	**9h**		
i Interest as applicable to end of plan year on lines 9f, 9g, and 9h			**9i**
j Full funding limitation (FFL) and credits:			
(1) ERISA FFL (accrued liability FFL)	**9j(1)**		
(2) "RPA '94" override (90% current liability FFL)	**9j(2)**		
(3) FFL credit			**9j(3)**
k (1) Waived funding deficiency			**9k(1)**
(2) Other credits			**9k(2)**
l Total credits. Add lines 9f through 9i, 9j(3), 9k(1), and 9k(2)			**9l**
m Credit balance: If line 9l is greater than line 9e, enter the difference			**9m**
n Funding deficiency: If line 9e is greater than 9l, enter the difference			**9n**

Schedule MB (Form 5500) 2009 Page **4**

9 o	Current year's accumulated reconciliation account:		
	(1) Due to waived funding deficiency accumulated prior to the 2009 plan year	**9o(1)**	
	(2) Due to amortization bases extended and amortized using the interest rate under section 6621(b) of the Code:		
	(a) Reconciliation outstanding balance as of valuation date	**9o(2)(a)**	
	(b) Reconciliation amount (line 9c(3) balance minus line 9o(2)(a))	**9o(2)(b)**	
	(3) Total as of valuation date	**9o(3)**	
10	Contribution necessary to avoid an accumulated funding deficiency. (See instructions.)	**10**	
11	Has a change been made in the actuarial assumptions for the current plan year? If "Yes," see instructions.		☐ Yes ☐ No

SCHEDULE SB (Form 5500)	Single-Employer Defined Benefit Plan Actuarial Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6059 of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500 or 5500-SF.	2009 This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning and ending

▶ **Round off amounts to nearest dollar.**

▶ **Caution:** A penalty of $1,000 will be assessed for late filing of this report unless reasonable cause is established.

A Name of plan	B Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500 or 5500-SF	D Employer Identification Number (EIN)

E Type of plan: (1) ☐ Single-employer (2) ☐ Multiple-employer

F Prior year plan size: ☐ 100 or fewer ☐ 101-500 ☐ More than 500

Part I Basic Information

1	Enter the valuation date: Month _____ Day _____ Year _____			
2	Assets:			
	a Market value		2a	
	b Actuarial value		2b	
3	Funding target/participant count breakdown		(1) Number of participants	(2) Funding Target
	a For retired participants and beneficiaries receiving payment	3a		
	b For terminated vested participants	3b		
	c For active participants:			
	(1) Non-vested benefits	3c(1)		
	(2) Vested benefits	3c(2)		
	(3) Total active	3c(3)		
	d Total	3d		
4	If the plan is at-risk, check box ☐ and complete items (a) and (b)			
	a Funding target disregarding prescribed at-risk assumptions		4a	
	b Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been at-risk for fewer than five consecutive years		4b	
5	Effective interest rate		5	%
6	Target normal cost		6	

Statement by Enrolled Actuary

To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

SIGN HERE

Signature of actuary — Date

Type or print name of actuary — Most recent enrollment number

Firm name — Telephone number (including area code)

Address of the firm

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions ☐

Part II Beginning of year carryover and prefunding balances

		(a) Carryover balance	(b) Prefunding balance
7	Balance at beginning of prior year after applicable adjustments (Item 13 from prior year)		
8	Portion used to offset prior year's funding requirement (Item 35 from prior year)		
9	Amount remaining (Item 7 minus item 8)		
10	Interest on item 9 using prior year's actual return of _____%		
11	Prior year's excess contributions to be added to prefunding balance:		
	a Excess contributions (Item 38 from prior year)		
	b Interest on (a) using prior year's effective rate of _____%		
	c Total available at beginning of current plan year to add to prefunding balance		
	d Portion of (c) to be added to prefunding balance		
12	Voluntary reduction		
13	Balance at beginning of current year (item 9 + item 10 + item 11d – item 12)		

Part III Funding percentages

14	Funding target attainment percentage	14	%
15	Adjusted funding target attainment percentage	15	%
16	Prior year's funding percentage for purposes of determining whether carryover/prefunding balances may be used to reduce current year's funding requirement	16	%
17	If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage	17	%

Part IV Contributions and liquidity shortfalls

18 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Date (MM-DD-YYYY)	(b) Amount paid by employer	(c) Amount paid by employee	(a) Date (MM-DD-YYYY)	(b) Amount paid by employer	(c) Amount paid by employee
			Totals ▶ 18(b)		18(c)

19	Discounted employer contributions – see instructions for small plan with a valuation date after the beginning of the year:		
	a Contributions allocated toward unpaid minimum required contribution from prior years	19a	
	b Contributions made to avoid restrictions adjusted to valuation date	19b	
	c Contributions allocated toward minimum required contribution for current year adjusted to valuation date	19c	

20 Quarterly contributions and liquidity shortfalls:

a Did the plan have a "funding shortfall" for the prior year? ☐ Yes ☐ No

b If 20a is "Yes," were required quarterly installments for the current year made in a timely manner? ☐ Yes ☐ No

c If 20a is "Yes," see instructions and complete the following table as applicable:

Liquidity shortfall as of end of Quarter of this plan year

(1) 1st	(2) 2nd	(3) 3rd	(4) 4th

Part V Assumptions used to determine funding target and target normal cost

21 Discount rate:

a Segment rates:	1st segment: %	2nd segment: %	3rd segment: %	☐ N/A, full yield curve used
b Applicable month (enter code)			**21b**	
22 Weighted average retirement age			**22**	

23 Mortality table (check box): ☐ Prescribed table(s) ☐ Substitute Table (see instructions)

Part VI Miscellaneous items

24 Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If "Yes," see instructions regarding required attachment	☐ Yes	☐ No
25 Has a method change been made for the current plan year? If "Yes," see instructions regarding required attachment.	☐ Yes	☐ No
26 Is the plan required to provide a Schedule of Active Participants? If "Yes," see instructions regarding required attachment	☐ Yes	☐ No

27 If the plan is eligible for (and is using) alternative funding rules, enter applicable code and see instructions regarding attachment	**27**	

Part VII Reconciliation of unpaid minimum required contributions for prior years

28 Unpaid minimum required contribution for all prior years	**28**	
29 Discounted employer contributions allocated toward unpaid minimum required contribution from prior years (item 19a)	**29**	
30 Remaining amount of unpaid minimum required contributions (item 28 minus item 29)	**30**	

Part VIII Minimum required contribution for current year

31 Target normal cost (Item 6)	**31**	

32 Amortization charges:	Outstanding Balance	Amount
a Net shortfall amortization charge		
b Waiver amortization charge		

33 If a waiver has been approved for this plan year, enter the date of the ruling letter granting the approval (Month _____ Day _____ Year _____) and the waived amount	**33**	
34 Total funding requirement before reflecting carryover/prefunding balances (item 31 + item 32a + item 32b – item 33)	**34**	

	Carryover balance	Prefunding balance	Amount
35 Balances used to offset funding requirement			

36 Additional cash requirement (item 34 minus item 35)	**36**	
37 Contributions allocated toward minimum required contribution for current year adjusted to valuation date (Item 19c)	**37**	
38 Excess contributions for current year (excess, if any, of item 37 over item 36)	**38**	
39 Unpaid minimum required contribution for current year (excess, if any, of item 36 over item 37)	**39**	
40 Unpaid minimum required contribution for all years	**40**	

SCHEDULE C (Form 5500)	Service Provider Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).	2009
Department of Labor Employee Benefits Security Administration	▶ File as an attachment to Form 5500.	This Form is Open to Public Inspection.
Pension Benefit Guaranty Corporation		

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan	B Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500	D Employer Identification Number (EIN)

Part I Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions). . . . . ☐ Yes ☐ No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosure on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

Schedule C (Form 5500) 2009 Page 2- [ ]

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

Schedule C (Form 5500) 2009 Page 3- ☐

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)							
(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?	
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐	

(a) Enter name and EIN or address (see instructions)							
(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?	
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐	

(a) Enter name and EIN or address (see instructions)							
(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?	
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐	

Schedule C (Form 5500) 2009

Page 4- ☐

(a) Enter name and EIN or address (see instructions)						
(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)						
(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)						
(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Schedule C (Form 5500) 2009 Page 5- ☐

Part I **Service Provider Information (continued)**

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received $1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 1	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 1	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 1	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

Schedule C (Form 5500) 2009

Page 6- ☐

Part II **Service Providers Who Fail or Refuse to Provide Information**

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

Part III **Termination Information on Accountants and Enrolled Actuaries (see instructions)**
(complete as many entries as needed)

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN;
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN;
c Position:	
d Address:	**e** Telephone:

Explanation:

SCHEDULE D (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

DFE/Participating Plan Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan

B Three-digit plan number (PN) ▶

C Plan or DFE sponsor's name as shown on line 2a of Form 5500

D Employer Identification Number (EIN)

Part I **Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs)** (Complete as many entries as needed to report all interests in DFEs)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN | **d** Entity code | **e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500.

Schedule D (Form 5500) 2009
v.042407

Schedule D (Form 5500) 2009 Page **2** - ☐

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

Schedule D (Form 5500) 2009 Page 3 - ☐

Part II **Information on Participating Plans (to be completed by DFEs)**
(Complete as many entries as needed to report all participating plans)

a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN
a Plan name	
b Name of plan sponsor	**c** EIN-PN

SCHEDULE G
(Form 5500)
Department of Treasury
Internal Revenue Service
Department of Labor
Employee Benefits Security Administation

Financial Transaction Schedules

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan:

B Three-digit plan number (PN) ▶

C Plan sponsor's name as shown on line 2a of Form 5500

D Employer Identification Number (EIN):

Part I Schedule of Loans or Fixed Income Obligations in Default or Classified as Uncollectible

Complete as many entries as needed to report all loans or fixed income obligations in default or classified as uncollectible. Check box (a) if obligor is known to be a party in interest. Attach Overdue Loan Explanation for each loan listed. See Instructions.

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
☐		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
☐		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
☐		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

Schedule G (Form 5500) 2009 Page **2** - ▯

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
▯		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
▯		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
▯		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
▯		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

(a)	(b) Identity and address of obligor	(c) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items
▯		

	Amount received during reporting year			Amount overdue	
(d) Original amount of loan	(e) Principal	(f) Interest	(g) Unpaid balance at end of year	(h) Principal	(i) Interest

Schedule G (Form 5500) 2009 Page **3** - ☐

Part II **Schedule of Leases in Default or Classified as Uncollectible**

Complete as many entries as needed to report all leases in default or classified as uncollectible. Check box (a) if lessor or lessee is known to be a party in interest. Attach Overdue Lease Explanation for each lease listed. (See instructions)

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

(a)	**(b)** Identity of lessor/lessee	**(c)** Relationship to plan, employer, employee organization or other party-in-interest	**(d)** Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)
☐			

(e) Original cost	**(f)** Current value at time of lease	**(g)** Gross rental receipts during the plan year	**(h)** Expenses paid during the plan year	**(i)** Net receipts	**(j)** Amount in arrears

Schedule G (Form 5500) 2009 Page **4 -** ☐

Part III **Nonexempt Transactions**

Complete as many entries as needed to report all nonexempt transactions. **Caution:** If a nonexempt prohibited transaction occurred with respect to a disqualified person, file Form 5330 with the IRS to pay the excise tax on the transaction.

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transaction including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transactions including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transactions including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transactions including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transactions including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

(a) Identity of party involved	**(b)** Relationship to plan, employer, or other party-in-interest	**(c)** Description of transactions including maturity date, rate of interest, collateral, par or maturity value	**(d)** Purchase price

(e) Selling price	**(f)** Lease rental	**(g)** Transaction expenses	**(h)** Cost of asset	**(i)** Current value of asset	**(j)** Net gain (or loss) on each transaction

SCHEDULE H (Form 5500)	**Financial Information**	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ▶ **File as an attachment to Form 5500.**	**2009** **This Form is Open to Public Inspection**

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan	**B** Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500	**D** Employer Identification Number (EIN)

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a		
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)		
(2) Participant contributions	1b(2)		
(3) Other	1b(3)		
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
(2) U.S. Government securities	1c(2)		
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)		
(B) All other	1c(3)(B)		
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)		
(B) Common	1c(4)(B)		
(5) Partnership/joint venture interests	1c(5)		
(6) Real estate (other than employer real property)	1c(6)		
(7) Loans (other than to participants)	1c(7)		
(8) Participant loans	1c(8)		
(9) Value of interest in common/collective trusts	1c(9)		
(10) Value of interest in pooled separate accounts	1c(10)		
(11) Value of interest in master trust investment accounts	1c(11)		
(12) Value of interest in 103-12 investment entities	1c(12)		
(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)		
(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
(15) Other	1c(15)		

		(a) Beginning of Year	(b) End of Year
1d Employer-related investments:			
(1) Employer securities	1d(1)		
(2) Employer real property	1d(2)		
e Buildings and other property used in plan operation	1e		
f Total assets (add all amounts in lines 1a through 1e)	1f		
Liabilities			
g Benefit claims payable	1g		
h Operating payables	1h		
i Acquisition indebtedness	1i		
j Other liabilities	1j		
k Total liabilities (add all amounts in lines 1g through1j)	1k		
Net Assets			
l Net assets (subtract line 1k from line 1f)	1l		

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

Income		(a) Amount	(b) Total
a Contributions:			
(1) Received or receivable in cash from: **(A)** Employers	2a(1)(A)		
(B) Participants	2a(1)(B)		
(C) Others (including rollovers)	2a(1)(C)		
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines **2a(1)(A), (B), (C),** and line **2a(2)**	2a(3)		
b Earnings on investments:			
(1) Interest:			
(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
(B) U.S. Government securities	2b(1)(B)		
(C) Corporate debt instruments	2b(1)(C)		
(D) Loans (other than to participants)	2b(1)(D)		
(E) Participant loans	2b(1)(E)		
(F) Other	2b(1)(F)		
(G) Total interest. Add lines **2b(1)(A)** through **(F)**	2b(1)(G)		
(2) Dividends: **(A)** Preferred stock	2b(2)(A)		
(B) Common stock	2b(2)(B)		
(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)		
(D) Total dividends. Add lines **2b(2)(A), (B),** and **(C)**	2b(2)(D)		
(3) Rents	2b(3)		
(4) Net gain (loss) on sale of assets: **(A)** Aggregate proceeds	2b(4)(A)		
(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	2b(4)(C)		

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate	2b(5)(A)		
(B) Other	2b(5)(B)		
(C) Total unrealized appreciation of assets. Add lines **2b(5)(A)** and **(B)**	2b(5)(C)		
(6) Net investment gain (loss) from common/collective trusts	2b(6)		
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)	2b(10)		
c Other income	2c		
d Total income. Add all **income** amounts in column (b) and enter total	2d		
Expenses			
e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)		
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines **2e(1)** through **(3)**	2e(4)		
f Corrective distributions (see instructions)	2f		
g Certain deemed distributions of participant loans (see instructions)	2g		
h Interest expense	2h		
i Administrative expenses: (1) Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)		
(3) Investment advisory and management fees	2i(3)		
(4) Other	2i(4)		
(5) Total administrative expenses. Add lines **2i(1)** through **(4)**	2i(5)		
j Total expenses. Add all **expense** amounts in column (b) and enter total	2j		
Net Income and Reconciliation			
k Net income (loss). Subtract line **2j** from line **2d**	2k		
l Transfers of assets:			
(1) To this plan	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) ☐ Unqualified (2) ☐ Qualified (3) ☐ Disclaimer (4) ☐ Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? ☐ Yes ☐ No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: (2) EIN:

d The opinion of an independent qualified public accountant is **not attached** because:

(1) ☐ This form is filed for a CCT, PSA, or MTIA. (2) ☐ It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

		Yes	No	Amount
a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a			
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.)	4b			
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)	4c			
d	Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.)	4d			
e	Was this plan covered by a fidelity bond?	4e			
f	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f			
g	Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g			
h	Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h			
i	Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.)	4i			
j	Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.)	4j			
k	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4k			
l	Has the plan failed to provide any benefit when due under the plan?	4l			
m	If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m			
n	If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year ☐ Yes ☐ No **Amount:**

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

SCHEDULE I (Form 5500)	**Financial Information—Small Plan**	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ▶ **File as an attachment to Form 5500.**	**2009** **This Form is Open to Public Inspection**

For calendar plan year 2009 or fiscal plan year beginning and ending

A Name of plan	**B** Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500	**D** Employer Identification Number (EIN)

Complete Schedule I if the plan covered fewer than 100 participants as of the beginning of the plan year. You may also complete Schedule I if you are filing as a small plan under the 80-120 participant rule (see instructions). Complete Schedule H if reporting as a large plan or DFE.

Part I Small Plan Financial Information

Report below the current value of assets and liabilities, income, expenses, transfers and changes in net assets during the plan year. Combine the value of plan assets held in more than one trust. Do not enter the value of the portion of an insurance contract that guarantees during this plan year to pay a specific dollar benefit at a future date. Include all income and expenses of the plan including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. **Round off amounts to the nearest dollar.**

1 **Plan Assets and Liabilities:**		**(a)** Beginning of Year	**(b)** End of Year
a Total plan assets	**1a**		
b Total plan liabilities	**1b**		
c Net plan assets (subtract line 1b from line 1a)	**1c**		
2 **Income, Expenses, and Transfers for this Plan Year:**		**(a)** Amount	**(b)** Total
a Contributions received or receivable:			
(1) Employers	**2a(1)**		
(2) Participants	**2a(2)**		
(3) Others (including rollovers)	**2a(3)**		
b Noncash contributions	**2b**		
c Other income	**2c**		
d Total income (add lines 2a(1), 2a(2), 2a(3), 2b, and 2c)	**2d**		
e Benefits paid (including direct rollovers)	**2e**		
f Corrective distributions (see instructions)	**2f**		
g Certain deemed distributions of participant loans (see instructions)	**2g**		
h Administrative service providers (salaries, fees, and commissions)	**2h**		
i Other expenses	**2i**		
j Total expenses (add lines 2e, 2f, 2g, 2h, and 2i)	**2j**		
k Net income (loss) (subtract line 2j from line 2d)	**2k**		
l Transfers to (from) the plan (see instructions)	**2l**		

3 **Specific Assets:** If the plan held assets at anytime during the plan year in any of the following categories, check "Yes" and enter the current value of any assets remaining in the plan as of the end of the plan year. Allocate the value of the plan's interest in a commingled trust containing the assets of more than one plan on a line-by-line basis unless the trust meets one of the specific exceptions described in the instructions.

		Yes	**No**	**Amount**
a Partnership/joint venture interests	**3a**			
b Employer real property	**3b**			
c Real estate (other than employer real property)	**3c**			
d Employer securities	**3d**			
e Participant loans	**3e**			

		Yes	No	Amount
3f Loans (other than to participants)	3f			
g Tangible personal property	3g			

Part II Compliance Questions

4 During the plan year:		Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a			
b Were any loans by the plan or fixed income obligations due the plan in default as of the close of plan year or classified during the year as uncollectible? Disregard participant loans secured by the participant's account balance	4b			
c Were any leases to which the plan was a party in default or classified during the year as uncollectible?	4c			
d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a.)	4d			
e Was the plan covered by a fidelity bond?	4e			
f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f			
g Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g			
h Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h			
i Did the plan at any time hold 20% or more of its assets in any single security, debt, mortgage, parcel of real estate, or partnership/joint venture interest?	4i			
j Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4j			
k Are you claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104-46? If "No," attach an IQPA's report or 2520.104-50 statement. (See instructions on waiver eligibility and conditions.)	4k			
l Has the plan failed to provide any benefit when due under the plan?	4l			
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m			
n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If "Yes," enter the amount of any plan assets that reverted to the employer this year ☐ Yes ☐ No **Amount:**

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	5b(2) EIN(s)	5b(3) PN(s)

SCHEDULE R (Form 5500)	**Retirement Plan Information**	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code). ▶ **File as an attachment to Form 5500.**	**2009** **This Form is Open to Public Inspection.**

For calendar plan year 2009 or fiscal plan year beginning , and ending ,

A Name of plan	**B** Three-digit plan number (PN) ▶
C Plan sponsor's name as shown on line 2a of Form 5500	**D** Employer Identification Number (EIN)

Part I Distributions

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions 1

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s): _____ _____

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year. 3

Part II Funding Information (If the plan is not subject to the minimum funding requirements of section of 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? ..... ☐ Yes ☐ No ☐ N/A

If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____

If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6 **a** Enter the minimum required contribution for this plan year	6a	
b Enter the amount contributed by the employer to the plan for this plan year	6b	
c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount)	6c	

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ..... ☐ Yes ☐ No ☐ N/A

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? ..... ☐ Yes ☐ No ☐ N/A

Part III Amendments

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box. ..... ☐ Increase ☐ Decrease ☐ Both ☐ No

Part IV ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ..... ☐ Yes ☐ No

11 **a** Does the ESOP hold any preferred stock? ..... ☐ Yes ☐ No

b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) ..... ☐ Yes ☐ No

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ..... ☐ Yes ☐ No

Schedule R (Form 5500) 2009 Page **2**

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month ______ Day ______ Year ______

e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) ______
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): ______

Schedule R (Form 5500) 2009 Page **3**

14	Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:		
	a The current year	**14a**	
	b The plan year immediately preceding the current plan year	**14b**	
	c The second preceding plan year	**14c**	
15	Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:		
	a The corresponding number for the plan year immediately preceding the current plan year	**15a**	
	b The corresponding number for the second preceding plan year	**15b**	
16	Information with respect to any employers who withdrew from the plan during the preceding plan year:		
	a Enter the number of employers who withdrew during the preceding plan year	**16a**	
	b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	**16b**	

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

19 If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify) _____

BILLING CODE 4510–29–C

Appendix D

2009 Instructions for Form 5500 and Schedules

Annual Return/Report of Employee Benefit Plan

ERISA refers to the Employee Retirement Income Security Act of 1974, and Code references are to the Internal Revenue Code, unless otherwise noted.

EFAST Processing System

Under the computerized ERISA Filing Acceptance System (EFAST), you must electronically file your 2009 Form 5500. You may file your 2009 Form 5500 on-line, using EFAST's web-based filing system or you may file through an EFAST-approved vendor. For more information, see the instructions for Electronic Filing Requirement.

About the Form 5500

The Form 5500, Annual Return/Report of Employee Benefit Plan, including all required schedules and attachments (Form 5500 Return/Report) is used to report information concerning employee benefit plans and Direct Filing Entities (DFEs). Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each benefit plan every year (Code section 6058 and ERISA sections 104 and 4065). Some plans participate in certain trusts, accounts, and other investment arrangements that file a Form 5500 Return/Report as DFEs. See Who Must File and When to File.

The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guarantee Corporation (PBGC) have consolidated certain returns and report forms to reduce the filing burden for plan administrators and employers. Employers and administrators who comply with the instructions for the Form 5500 Return/Report generally will satisfy the annual reporting requirements for the IRS and DOL.

Plans covered by the PBGC have special additional requirements, including filing Annual Premium Payment (PBGC Form 1) and reporting certain transactions directly with that agency. See PBGC's Premium Payment Instructions (Form 1 Package).

Each Form 5500 Return/Report must accurately reflect the characteristics and operations of the plan or arrangement being reported. The requirements for completing the Form 5500 Return/Report will vary according to the type of plan or arrangement. The section What to File summarizes what information must be reported for different types of plans and arrangements. The Quick Reference Chart for Form 5500, Schedules and Attachments gives a brief guide to the annual return/report requirements for the 2009 Form 5500.

The Form 5500 Return/Report must be filed electronically. Your entries will be initially screened. Your entries must satisfy this screening in order to be filed. Once filed, your form may be subject to further detailed review and your filing may be rejected based on this further review.

ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. See Penalties.

Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the DOL to the public pursuant to ERISA sections 104 and 106.

How To Get Assistance

If you need help completing this form or have related questions, call the EFAST Help Line at [number to be provided] (toll free). The EFAST Help

Line is available Monday through Friday from 8 a.m. to 8 p.m., Eastern Time.

You can access the EFAST Web site 24 hours a day, 7 days a week at *http://www.efast.dol.gov* to:

- View forms and related instructions.
- Get information regarding EFAST, including approved software vendors.
- See answers to frequently asked questions about the Form 5500–SF, the Form 5500 and its Schedules, and EFAST.
- Access the main EBSA and DOL Web sites for news, regulations, and publications.

You can access the IRS Web site 24 hours a day, 7 days a week at *http://www.irs.gov* to:

- View forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications online by topic or keyword.
- Send comments or request help by e-mail.
- Sign up to receive local and national tax news by e-mail.

You can order related forms and IRS publications by calling 1–800–TAX–FORM (1–800–829–3676). You can order EBSA publications by calling 1–866–444–3272. In addition, most IRS forms and publications are available at your local IRS office.

Table of Contents

Section 1: Who Must File
Pension Benefit Plan
Welfare Benefit Plan
Direct Filing Entity (DFE)
Section 2: When To File
Extension of Time To File
Section 3: Electronic Filing Requirement
Amended Return/Report
Final Return/Report
Signature and Date
Change in Plan Year
Penalties
Administrative Penalties
Other Penalties
Section 4: What To File
Form 5500 Schedules
Pension Benefit Schedules
Pension and Welfare Benefit Schedules
Pension Benefit Plan Filing Requirements
Limited Pension Plan Reporting
Welfare Benefit Plan Filing Requirements
Direct Filing Entity (DFE) Filing Requirements
Master Trust Investment Account (MTIA)
Common/Collective Trust (CCT) and Pooled Separate Account (PSA)
103–12 Investment Entity (103–12 IE)
Group Insurance Arrangement (GIA)
Section 5: Line-by-Line Instructions for the 2009 Form 5500 and Schedules
Part I—Form 5500 Annual Return/Report Identification Information
Part II—Basic Plan Information
Schedule A Insurance Information
Schedule MB Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information
Schedule SB Single-Employer Defined Benefit Plan Actuarial Information
Schedule C Service Provider Information
Schedule D DFE/Participating Plan Information
Schedule G Financial Transaction Schedules
Schedule H Financial Information
Schedule I Financial Information—Small Plan
Schedule R Retirement Plan Information
ERISA Compliance Quick Checklist
Quick Reference Chart of Form 5500 Schedules and Attachments
Paperwork Reduction Act Notice
Codes for Principal Business Activity

Section 1: Who Must File

A return/report must be filed every year for every pension benefit plan, welfare benefit plan, and for every entity that files as a DFE as specified below (Code section 6058 and ERISA sections 104 and 4065).

TIP: Plans that have fewer than 100 participants at the beginning of the plan year, are exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant (IQPA) (but not by reason of enhanced bonding), have 100% of their assets invested in certain secure investments with a readily determinable fair market value, hold no employer securities, and are not multiemployer plans, generally are eligible to file the Form 5500–SF, Short Form Annual Return/Report of Small Employer Benefit Plan (Form 5500–SF), in lieu of the Form 5500 Return/Report. For more information on who may file the Form 5500–SF, see *http://www.dol.gov/ebsa.*

Pension Benefit Plan

All pension benefit plans covered by ERISA must file an annual return/report except as provided in this section. This return/report must be filed whether or not the plan is ''tax qualified,'' benefits no longer accrue, contributions were not made this plan year, or contributions are no longer made. Pension benefit plans required to file include both defined benefit plans and defined contribution plans.

The following are among the pension benefit plans for which a return/report must be filed:

1. Profit-sharing, stock bonus, money purchase, 401(k) plans, etc.

2. Annuity arrangements under Code section 403(b)(1).

3. Custodial accounts established under Code section 403(b)(7) for regulated investment company stock.

4. Individual retirement accounts (IRAs) established by an employer under Code section 408(c).

5. Church pension plans electing coverage under Code section 410(d).

6. Pension benefit plans that cover residents of Puerto Rico, the U.S. Virgin Islands, Guam, Wake Island, or American Samoa. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.

7. Plans that satisfy the Actual Deferral Percentage requirements of Code section 401(k)(3)(A)(ii) by adopting the ''SIMPLE'' provisions of section 401(k)(11).

See What to File for more information about what must be completed for pension plans.

Do Not File a Form 5500 for a Pension Benefit Plan That Is Any of the Following:

1. An unfunded excess benefit plan. See ERISA section 4(b)(5).

2. An annuity or custodial account arrangement under Code section 403(b)(1) or (7) not established or maintained by an employer as described in DOL Regulation 29 CFR 2510.3–2(f).

3. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).

4. A simplified employee pension plan (SEP) or a salary reduction SEP described in Code section 408(k) that conforms to the alternative method of compliance in 29 CFR 2520.104–48 or 2520.104–49.

5. A church plan not electing coverage under Code section 410(d).

6. A pension plan that is maintained outside the United States primarily for the benefit of persons substantially all of whom are nonresident aliens.

7. An unfunded pension plan for a select group of management or highly compensated employees that meets the requirements of 29 CFR 2520.104–23, including timely filing of a registration statement with the DOL.

8. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–27.

9. An individual retirement account or annuity not considered a pension plan under 29 CFR 2510.3–2(d).

10. A governmental plan.

11. One-Participant (Owners and Their Spouses) Retirement Plan (generally referred to as a One-Participant Plan). However, One-Participant Plans must file either the Form 5500–EZ with the IRS or, if eligible, may file the Form 5500–SF

electronically with EFAST. For this purpose, a One-Participant Plan is: (1) A pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses. *See* the instructions to the Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan, and the Form 5500–SF for eligibility conditions and filing requirements. For more information go to *http://www.irs.gov/ep* or call 1–877–829–5500.

Welfare Benefit Plan

All welfare benefit plans covered by ERISA are required to file a Form 5500 except as provided in this section. Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay, disability, etc. See What to File for more information.

Reminder: The administrator of an employee welfare benefit plan that provides benefits wholly or partially through a Multiple-employer Welfare Arrangement (MEWA), as defined in ERISA section 3(40), must file a Form 5500, unless otherwise exempt.

Do Not File a Form 5500 for a Welfare Benefit Plan That Is Any of the Following:

1. A welfare benefit plan that covered fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded.

Note: To determine whether the plan covers fewer than 100 participants for purposes of these filing exemptions for insured and unfunded welfare plans, see instructions for lines 6 and 7 on counting participants in a welfare plan. See also 29 CFR 2510.3–3(d).

a. An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or employee organization that sponsors the plan.

Note: Plans that are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the year. A welfare plan with employee contributions that is associated with a cafeteria plan under Code section 125 may be treated for annual reporting purposes as an unfunded welfare plan if it meets the requirements of DOL Technical Release 92–01, 57 FR 23272 (June 2, 1992) and 58 FR 45359 (Aug. 27, 1993). The mere receipt of COBRA contributions or other after-tax participant contributions would not by itself affect the availability of the relief provided for cafeteria plans that otherwise meet the requirements of DOL Technical Release 92–01. See 61 FR 41220, 41222–23 (Aug. 7, 1996).

b. A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or employee organization forwards within three (3) months of receipt). The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that is qualified to do business in any state.

c. A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare benefit plan that provides medical benefits as in a above and life insurance benefits as in b above. See 29 CFR 2520.104–20.

Note: A ''voluntary employees' beneficiary association,'' as used in Code section 501(c)(9) (''VEBA''), should not be confused with the employer or employee organization that sponsors the plan. See ERISA section 3(4).

2. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

3. A governmental plan.

4. An unfunded or insured welfare plan for a select group of management or highly compensated employees, which meets the requirements of 29 CFR 2520.104–24.

5. An employee benefit plan maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

6. A welfare benefit plan that participates in a group insurance arrangement that files a Form 5500 Return/Report on behalf of the welfare benefit plan as specified in 29 CFR 2520.103–2. See 29 CFR 2520.104–43.

7. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104–22.

8. An unfunded dues financed welfare benefit plan exempted by 29 CFR 2520.104–26.

9. A church plan under ERISA section 3(33).

10. A welfare benefit plan solely for (1) an individual or an individual and his or her spouse, who wholly owns a trade or business, whether incorporated or unincorporated, or (2) partners or the partners and the partners' spouses in a partnership. See 29 CFR 2510.3–3(b).

Direct Filing Entity (DFE)

Some plans participate in certain trust, accounts, and other investment arrangements that file the Form 5500 Return/Report as a DFE in accordance with the Direct Filing Entity (DFE) Filing Requirements. A Form 5500 Return/Report must be filed for a master trust investment account (MTIA). A Form 5500 is not required, but may be filed for a common/collective trust (CCT), pooled separate account (PSA), 103–12 investment entity (103–12 IE), or group insurance arrangement (GIA). Plans that participate in CCTs, PSAs, 103–12 IEs, or GIAs that file as DFEs, however, generally are eligible for certain annual reporting relief. For reporting purposes, a CCT, PSA, 103–12 IE, or GIA is not considered a DFE unless a Form 5500 Return/Report is filed for it in accordance with the Direct Filing Entity (DFE) Filing Requirements.

Note: Special requirements also apply to Schedules D and H attached to the Form 5500 filed by plans participating in MTIAs, CCTs, PSAs, and 103–12 IEs. See the instructions for these schedules.

Section 2: When to File

Plans and GIAs. File 2009 returns/reports for plan and GIA years that began in 2009. All required forms, schedules, statements, and attachments must be filed by the last day of the 7th calendar month after the end of the plan or GIA year (not to exceed 12 months in length) that began in 2009. If the plan or GIA year differs from the 2009 calendar year, fill in the fiscal year beginning and ending dates in the space provided.

DFEs other than GIAs. File 2009 Returns/Reports no later than 9½ months after the end of the DFE year that ended in 2009. A Form 5500 Return/Report filed for a DFE must report information for the DFE year (not to exceed 12 months in length). If the DFE year differs from the 2009 calendar year, fill in the fiscal year beginning and ending dates in the space provided.

Short Years. For a plan year of less than 12 months (short plan year), file the form and applicable schedules by the last day of the 7th month after the short plan year ends. Fill in the short plan year beginning and ending dates in the space provided and check the appropriate box in Part I, Line B of the

Form 5500. For purposes of this return/report, the short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also see the instructions for Final Return/Report to determine if ''the final return/report'' in Line B should be checked. Generally, only defined benefit pension plans need to get approval for a change in plan year.

Notes: (1) If the filing due date falls on a Saturday, Sunday, or Federal holiday, the return/report may be filed on the next day that is not a Saturday, Sunday, or Federal holiday. (2) If the 2010 Form 5500 is not available before the plan or DFE filing due date, you may use the 2009 Form 5500 and enter the 2009 fiscal year beginning and ending dates in the space provided.

Extension of Time To File

Using Form 5558

A plan or GIA may obtain a one-time extension of time to file a Form 5500 Return/Report (up to 2½ months) by filing IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on or before the normal due date (not including any extensions) of the return/report. You MUST file the Form 5558 with the IRS. Approved copies of the Form 5558 will not be returned to the filers. A copy of the completed extension request must, however, be retained with the filer's records.

File Form 5558 with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201–0027.

Using Extension of Time To File Federal Income Tax Return

An automatic extension of time to file the Form 5500 Return/Report until the due date of the Federal income tax return of the employer will be granted if all of the following conditions are met: (1) The plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500 Return/Report; and (3) a copy of the application for extension of time to file the Federal income tax return is maintained with the filer's records. An extension of time granted by using this automatic extension procedure CANNOT be extended further by filing a Form 5558, nor can it be extended beyond a total of 9½ months beyond the close of the plan year.

Note: An extension of time to file the Form 5500 Return/Report described in this section does not operate as an extension of time to file a Form 5500 Return/Report for a DFE (other than a GIA) or the PBGC Form 1.

Other Extensions of Time

The IRS, DOL, and PBGC may announce special extensions of time under certain circumstances, such as extensions for Presidentially-declared disasters or for service in, or in support of, the Armed Forces of the United States in a combat zone. See *http://www.irs.gov* and *http://www.efast.dol.gov* for announcements regarding such special extensions. If you are relying on one of these announced special extensions, check the appropriate box on Form 5500, Part I, line D and enter a description of the announced authority for the extension.

Delinquent Filer Voluntary Compliance (DFVC) Program

The DFVC Program facilitates voluntary compliance by plan administrators who are delinquent in filing annual reports under Title I of ERISA by permitting administrators to pay reduced civil penalties for voluntarily complying with their DOL annual reporting obligations. If the Form 5500 Return/Report is being filed under the DFVC Program, check the appropriate item in Form 5500, Part I, line D to indicate that the Form 5500 Return/Report is being filed under the DFVC Program.

See *http://www.efast.dol.gov* for information concerning the submission of penalty payments to the DFVC Program processing center. Do not submit penalty payments to EFAST. [Current instructions for penalty payment submissions will be provided]

Section 3: Electronic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST), you must file your 2009 Form 5500 Return/Report electronically. You may file on-line, using EFAST's web-based filing system, or you may file through an EFAST-approved vendor. Detailed information on electronic filing is available at (insert web address). For telephone assistance, call the EFAST Help Line at [number to be provided]. The EFAST Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

CAUTION: Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by DOL to the public pursuant to ERISA sections 104 and 106. Even though the Form 5500 Return/Report must be filed electronically, the administrator must keep a copy of the Form 5500, including schedules and attachments, with all required manual signatures on file as part of the plan's records and must make a paper copy available on request to participants, beneficiaries, and the DOL as required by section 104 of ERISA and 29 CFR 2520.103–1.

Answer all questions with respect to the plan year unless otherwise explicitly stated in the instructions or on the form itself. Therefore, responses usually apply to the 2009 plan year.

Your entries will be initially screened. Your entries must satisfy this screening in order to be filed. Once filed, your form may be subject to further detailed review, and your filing may be rejected based upon this further review. To reduce the possibility of correspondence and penalties:

- Complete all lines on the Form 5500 unless otherwise specified. Also complete or electronically attach, as required, applicable schedules and attachments.
- Do not enter ''N/A'' or ''Not Applicable'' on the Form 5500 Return/Report unless specifically permitted. ''Yes'' or ''No'' questions on the forms and schedules cannot be left blank, but must be answered either ''Yes'' or ''No,'' and not both.

The Form 5500, Schedules, and attachments are open to public inspection, and the contents are public information subject to publication on the Internet. Do not enter social security numbers in response to questions asking for an employer identification number (EIN). Because of privacy concerns, the inclusion of a social security number on the Form 5500 or on a schedule or attachment may result in the rejection of the filing. EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web site at *http://www.irs.gov.* The EBSA does not issue EINs.

Amended Return/Report

File an amended return/report to correct errors and/or omissions in a previously filed and accepted annual return/report for the 2009 plan year. The amended Form 5500 and any amended schedules and/or attachments must conform to the requirements in these Instructions. See the DOL Web site at *http://www.efast.dol.gov* for information on filing amended returns/reports for prior years.

Final Return/Report

If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or legally transferred to the control of another plan, and when all

liabilities for which benefits may be paid under a welfare benefit plan have been satisfied, check the final return/report box in Part I, line B at the top of the Form 5500. If a trustee is appointed for a terminated defined benefit plan pursuant to ERISA section 4042, the last plan year for which a return/report must be filed is the year in which the trustee is appointed.

Examples:

Mergers/Consolidations

A final return/report should be filed for the plan year (12 months or less) that ends when all plan assets were legally transferred to the control of another plan.

Pension and Welfare Plans That Terminated Without Distributing All Assets

If the plan was terminated, but all plan assets were not distributed, a return/report must be filed for each year the plan has assets. The return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's assets/property.

Welfare Plans Still Liable To Pay Benefits

A welfare plan cannot file a final return/report if the plan is still liable to pay benefits for claims that were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Signature and Date

The Form 5500 Annual Return/Report and any applicable schedules must be signed and dated. The administrator is required under ERISA to maintain a copy of the annual report with all required signatures, as part of the plan's records, even though the return/report is filed electronically. *See* 29 CFR 2520.103–1.

Electronic signatures on annual returns/reports filed under EFAST2 are affected by the applicable statutory and regulatory requirements. Information on those requirements will be made available for electronic filing under EFAST2.

Change in Plan Year

Generally, only defined benefit pension plans need to get approval for a change in plan year. (*See* Code section 412(c)(5).) However, under Rev. Proc. 87–27, 1987–1 C.B. 769, these pension benefit plans may be eligible for automatic approval of a change in plan year. If a change in plan year for a pension or a welfare plan creates a short plan year, the appropriate Box in Part I, line B of the Form 5500 must be checked and a Form 5500, with all required schedules and attachments, must be filed by the last day of the 7th calendar month after the end of the short plan year.

Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL and IRS, respectively, to assess or impose penalties for not giving complete information and for not filing statements and returns/reports. Certain penalties are administrative (i.e., they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of the annual return/report data). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. Generally whether the penalty is assessed under ERISA or the Code, or both, depends upon the agency for which the information is required to be filed. One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,100 a day for each day a plan administrator fails or refuses to file a complete report. See ERISA section 502(c)(2) and 29 CFR 2560.502c–2.

2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e).

3. A penalty of $1,000 for not filing an actuarial statement. See Code section 6692.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $100,000 or imprisoned not more than 10 years, or both. See section 501 of ERISA.

2. A penalty up to $10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

Section 4: What To File

The Form 5500 Return/Report reporting requirements vary depending on whether the Form 5500 is being filed for a ''large plan,'' a ''small plan,'' and/or a DFE, and on the particular type of plan or DFE involved (e.g., welfare plan, pension plan, common/collective trust (CCT), pooled separate account (PSA), master trust investment account (MTIA), 103–12 IE, or group insurance arrangement (GIA)).

The Instructions below provide detailed information about each of the Form 5500 Return/Report schedules and which plans and DFEs are required to file them. First, the schedules are grouped by type: (1) Pension Schedules and (2) General Schedules. Each schedule is listed separately with a description of the subject matter covered by the schedule and the plans and DFEs that are required to file the schedule.

Filing requirements are also listed by type of filer: (1) Pension Benefit Plan Filing Requirements; (2) Welfare Benefit Plan Filing Requirements; and (3) DFE Filing Requirements. For each filer type there is a separate list of the schedules that must be filed with the Form 5500 (including where applicable, separate lists for large plan filers, small plan filers, and different types of DFEs).

The filing requirements are summarized in a ''Quick Reference Chart for Form 5500, Schedules, and Attachments.''

Generally, a return/report filed for a pension benefit plan or welfare benefit plan that covered fewer than 100 participants as of the beginning of the plan year should be completed following the requirements below for a ''small plan,'' and a return/report filed for a plan that covered 100 or more participants as of the beginning the plan year should be completed following the requirements below for a ''large plan.''

Use the number of participants required to be entered in line 5 of the Form 5500 to determine whether a plan is a ''small plan'' or a ''large plan.''

Exceptions:

(1) *80–120 Participant Rule*: If the number of participants reported on line 5 is between 80 and 120, and a Form 5500 Return/Report was filed for the prior plan year, you may elect to complete the return/report in the same category (''large plan'' or ''small plan'') as was filed for the prior return/report. Thus, if a Form 5500 Return/Report was filed for the 2008 plan year as a small

plan, including the Schedule I if applicable, and the number entered on line 5 of the 2009 Form 5500 is 120 or less, you may elect to complete the 2009 Form 5500 and schedules in accordance with the instructions for a small plan, including, for eligible filers, filing the Form 5500–SF, instead of the Form 5500 Return/Report.

(2) *Short Plan Year Rule*: If the plan had a short plan year of 7 months or less for either the prior plan year or the plan year being reported on the 2009 Form 5500, an election can be made to defer filing the accountant's report in accordance with 29 CFR 2520.104–50. If such an election was made for the prior plan year, the 2009 Form 5500 Return/Report must be completed following the requirements for a large plan, including the attachment of the Schedule H and the accountant's reports, regardless of the number of participants entered in Part II, line 5.

Form 5500 Schedules

Pension Schedules

Schedule R (Retirement Plan Information)—is required for a pension benefit plan that is a defined benefit plan or is otherwise subject to Code section 412 or ERISA section 302. Schedule R may also be required for certain other pension benefit plans unless otherwise specified under Limited Pension Plan Reporting. For additional information, see the Schedule R instructions.

Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information)— is required for most single-employer defined benefit plans, including multiple-employer defined benefit pension plans. For additional information, see the instructions for the Schedule SB.

Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information)—is required for most multiemployer defined benefit pension plans and for defined contribution pension plans that currently amortize a waiver of the minimum funding requirements specified in the instructions for the Schedule MB. For additional information, see the instructions for the Schedule MB.

General Schedules

Schedule H (Financial Information)—is required for pension benefit plans and welfare plans filing as ''large plans'' and for all DFE filings. Employee benefit plans, 103–12 IEs, and GIAs filing the Schedule H are generally required to engage an independent qualified pubic accountant (IQPA) and attach a report of the IQPA pursuant to ERISA section 103(a)(3)(A). These plans and DFEs are also generally required to attach to the Form 5500 Return/Report a ''Schedule of Assets (Held at End of Year)'' and, if applicable, a ''Schedule of Assets (Acquired and Disposed of Within Year),'' a ''Schedule of Reportable Transactions,'' and a ''Schedule of Delinquent Participant Contributions.'' For additional information, see the Schedule H instructions.

Exceptions: Insured, unfunded, or combination unfunded/insured welfare plans, as described in 29 CFR 2520.104–44(b)(1), and certain pension plans and arrangements described in 29 CFR 2520.104–44(b)(2) and in Limited Pension Plan Reporting, are exempt from completing the Schedule H.

Schedule I (Financial Information—Small Plan) is required for all pension benefit plans and welfare benefit plans filing the Form 5500 Return/Report, rather than the Form 5500–SF, as ''small plans,'' except for certain pension benefit plans and arrangements described in 29 CFR 2520.104–44(b)(2) and in Limited Pension Plan Reporting. For additional information, see the Schedule I instructions.

Schedule A (Insurance Information)—is required if any benefits under an employee benefit plan are provided by an insurance company, insurance service or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization). This includes investment contracts with insurance companies, such as guaranteed investment contracts and pooled separate accounts. For additional information, see the Schedule A instructions.

Note: Do not file Schedule A for Administrative Services Only (ASO) contracts. Do not file Schedule A if a Schedule A is filed for the contract as part of the Form 5500 Return/Report filed directly by an MTIA or 103–12 IE.

Schedule C (Service Provider Information)—is required for a large plan, MTIA, 103–12 IE, or GIA if (1) any service provider who rendered services to the plan or DFE during the plan or DFE year received $5,000 or more in compensation, directly or indirectly from the plan or DFE, or (2) an accountant and/or enrolled actuary has been terminated. For additional information, see the Schedule C instructions.

Schedule D (DFE/Participating Plan Information)—Part I is required for a plan or DFE that invested or participated in any MTIAs, 103–12 IEs, CCTs, and/or PSAs. Part II is required when the Form 5500 Return/Report is filed for a DFE. For additional information, see the Schedule D instructions.

Schedule G (Financial Transaction Schedules)—is required for a large plan, MTIA, 103–12 IE, or GIA when Schedule H (Financial Information) lines 4b, 4c, and/or 4d are checked ''Yes.'' Part I of the Schedule G reports loans or fixed income obligations in default or classified as uncollectible. Part II of the Schedule G reports leases in default or classified as uncollectible. Part III of the Schedule G reports non-exempt transactions. For additional information, see the Schedule G instructions.

CAUTION: An unfunded, fully insured, or combination unfunded/insured welfare plan with 100 or more participants exempt under 29 CFR 2520.104–44 from completing Schedule H must still complete Schedule G, Part III, to report nonexempt transactions.

Pension Benefit Plan Filing Requirements

Pension benefit plan filers must complete the Form 5500, including the signature block, and unless otherwise specified, attach the following schedules and information:

Small Pension Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a small pension plan that is neither exempt from filing nor is filing the Form 5500–SF.

1. Schedule A (as many as needed), to report insurance, annuity, and investment contracts held by the plan.

2. Schedule SB or MB, to report actuarial information, if applicable.

3. Schedule D, Part I, to list any CCTs, PSAs, MTIAs, and 103–12 IEs in which the plan invested at any time during the plan year.

4. Schedule I, to report small plan financial information, unless exempt.

5. Schedule R, to report retirement plan information, if applicable.

CAUTION: If Schedule I, line 4k, is checked ''No,'' you must attached the report of the independent qualified public accountant (IQPA) or a statement that the plan is eligible and elects to defer attaching the IQPA's opinion pursuant to 29 CFR 2520.104–50 in connection with a short plan year of seven months or less.

Large Pension Plan

The following schedules (including any additional information required by the instructions to the schedules) must

be attached to a Form 5500 filed for a large pension plan.

1. Schedule A (as many as needed), to report insurance, annuity, and investment contracts held by the plan.

2. Schedule SB or MB, to report actuarial information, if applicable.

3. Schedule C, if applicable, to report information on service providers and, if applicable, any terminated accountants or enrolled actuaries.

4. Schedule D, Part I, to list any CCTs, PSAs, MTIAs, and 103–12 IEs in which the plan invested at any time during the plan year.

5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year, leases in default or classified as uncollectible, and nonexempt transaction, i.e., file Schedule G if Schedule H (Form 5500) lines 4b, 4c, and/or 4d are checked ''Yes.''

6. Schedule H, to report large plan financial information, unless exempt.

7. Schedule R, to report retirement plan information, if applicable.

CAUTION: You must attach the report of the independent qualified public accountant (IQPA) identified on Schedule H, Line 3c, unless line 3d(2) is checked.

Limited Pension Plan Reporting

The pension benefit plans or arrangements described below are eligible for limited annual reporting:

1. IRA Plans: A pension plan using individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing pension benefits need complete only Form 5500, Part I and Part II, lines 1 through 5, and 8 (enter pension feature code 2N).

2. Fully Insured Pension Plan: A pension benefit plan providing benefits exclusively through an insurance contract or contracts that are fully guaranteed and that meet all of the conditions of 29 CFR 2520.104–44(b)(2) during the entire plan year must complete all the requirements listed under this Pension Benefit Plan Filing Requirements section, except that such a plan is exempt from attaching Schedule H, Schedule I, and an independent qualified public accountant's (IQPA's) opinion, and from the requirement to engage an IQPA.

A pension benefit plan that has insurance contracts of the type described in 29 CFR 2520.104–44 as well as other assets must complete all requirements for a pension benefit plan, except that the value of the plan's allocated contracts (see below) should not be reported in Part I of Schedule H or I. All other assets should be reported on Schedule H or Schedule I, and any other required schedules. If Schedule H is filed, an IQPA's report must be attached in accordance with the Schedule H instructions.

Note: For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104–44, a contract is considered to be ''allocated'' only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount. This amount must be provided to each participant without adjustment for fluctuations in the market value of the underlying assets of the company or organization, and each participant must have a legal right to such benefits, which is legally enforceable directly against the insurance company or organization. For example, deposit administration, immediate participation guarantee, and guaranteed investment contracts are NOT allocated contracts for Form 5500 Return/Report purposes.

Welfare Benefit Plan Filing Requirements

Welfare benefit plan filers must complete the Form 5500, including the signature block and, unless otherwise specified, attach the following schedules and information:

Small Welfare Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a small welfare plan not exempt from filing that also is not eligible to file Form 5500–SF:

1. Schedule A (as many as needed), to report insurance contracts held by the plan.

2. Schedule D, Part I, to list any CCTs, PSAs, MTIAs, and 103–12 IEs in which the plan participated at any time during the plan year.

3. Schedule I, to report small plan financial information.

Large Welfare Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a large welfare plan.

1. Schedule A (as many as needed), to report insurance and investment contracts held by the plan.

2. Schedule C, if applicable, to report information on service providers and any terminated accountants or actuaries.

3. Schedule D, Part I, to list any CCTs, PSAs, MTIAs, and 103–12 IEs in which the plan invested at any time during the plan year.

4. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year, leases in default or classified as uncollectible, and nonexempt transactions, i.e., file Schedule G if Schedule H (Form 5500) lines 4b, 4c, and/or 4d are checked ''Yes'' or if a large welfare plan that is not required to file a Schedule H has nonexempt transactions.

5. Schedule H, to report financial information, unless exempt.

CAUTION: Attach the report of the independent qualified public accountant (IQPA) identified on Schedule H, line 3c, unless line 3d(2) is checked.

TIP: Neither Schedule H nor an IQPA's opinion should be attached to a Form 5500 filed for an unfunded, fully insured or combination unfunded/insured welfare plan that covered 100 or more participants as of the beginning of the plan year which meets the requirements of 29 CFR 2520.104–44. However, Schedule G, Part III, must be attached to the Form 5500 to report any nonexempt transactions. A welfare benefit plan that uses a ''voluntary employees' beneficiary association'' (VEBA) under Code section 501(c)(9) is generally not exempt from the requirement of engaging an IQPA.

Direct Filing Entity (DFE) Filing Requirements

Some plans participate in certain trusts, accounts, and other investment arrangements that file the Form 5500 Return/Report as a DFE. A Form 5500 Return/Report must be filed for a master trust investment account (MTIA). A Form 5500 Return/Report is not required but may be filed for a common/collective trust (CCT), pooled separate account (PSA), 103–12 investment entity (103–12 IE), or group insurance arrangement (GIA). However, plans that participate in CCTs, PSAs, 103–12 IEs, or GIAs that file as DFEs generally are eligible for certain annual reporting relief. For reporting purposes, a CCT, PSA, 103–12 IE, or GIA is considered a DFE only when a Form 5500 and all required schedules attachments are filed for it in accordance with the following instructions.

Only one Form 5500 Return/Report should be filed for each DFE for all plans participating in the DFE; however, the Form 5500 Return/Report filed for the DFE, including all required schedules and attachments, must report information for the DFE year (not to exceed 12 months in length) that ends with or within the participating plan's year. Any Form 5500 Return/Report filed for a DFE is an integral part of the

annual report of each participating plan, and the plan administrator may be subject to penalties for failing to file a complete annual report unless both the DFE's Form 5500 Return/Report and the plan's Form 5500 Return/Report are properly filed. The information required for a Form 5500 Return/Report filed for a DFE varies according to the type of DFE. The following paragraphs provide specific guidance for the reporting requirements for each type of DFE.

Master Trust Investment Account (MTIA)

The administrator filing a Form 5500 Return/Report for an employee benefit plan is required to file or have a designee also file a Form 5500 Return/Report for each MTIA in which the plan participated at any time during the plan year. For reporting purposes, a ''master trust'' is a trust for which a regulated financial institution (as defined below) serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control with respect to the management of assets held in the trust), and in which assets of more than one plan sponsored by a single-employer or by a group of employers under common control are held.

''Common control'' is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated). A ''regulated financial institution'' means a bank, trust company, or similar financial institution that is regulated, supervised, and subject to periodic examination by a state or Federal agency. A securities brokerage firm is not a ''similar financial institution'' as used here. See DOL Advisory Opinion 93–21A (available at *http://www.dol.gov/ebsa*).

The assets of a master trust are considered for reporting purposes to be held in one or more ''investment accounts.'' A ''master trust investment account'' may consist of a pool of assets or a single asset. Each pool of assets held in a master trust must be treated as a separate MTIA if each plan that has an interest in the pool has the same fractional interest in each asset in the pool as its fractional interest in the pool, and if each such plan may not dispose of its interest in any asset in the pool without disposing of its interest in the pool. A master trust may also contain assets that are not held in such a pool. Each such asset must be treated as a separate MTIA.

Notes: (1) If a MTIA consists solely of one plan's asset(s) during the reporting period, the plan may report the asset(s) either as an investment account on a MTIA's Form 5500, or as a plan asset(s) that is not part of the master trust (and therefore subject to all instructions concerning assets not held in a master trust) on the plan's Form 5500. (2) If a master trust holds assets attributable to participant or beneficiary directed transactions under an individual account plan and the assets are interests in registered investment companies, interests in contracts issued by an insurance company licensed to do business in any state, interests in common/collective trusts maintained by a bank, trust company or similar institution, or have a current value that is readily determinable on an established market, those assets may be treated as a single MTIA. The Form 5500 Return/Report submitted for the MTIA must comply with the instructions for a Large Pension Plan, unless otherwise specified in the forms and instructions.

The MTIA must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 9. Be certain to enter ''M'' in Part 1, A.

2. Schedule A (as many as needed) to report insurance, annuity and investment contracts held by the MTIA.

3. Schedule C, if applicable, to report service provider information. Part II is not required for a MTIA.

4. Schedule D, to list CCTs, PSAs, and 103–12 IEs in which the MTIA invested at any time during the MTIA year and to list all plans that participated in the MTIA during its year.

5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the MTIA year, all leases in default or classified as uncollectible, and nonexempt transactions.

6. Schedule H, except lines 1b(1), 1b(2), 1c(8), 1g, 1h, 1i, 2a, 2b(1)(E), 2e, 2f, 2g, 4a, 4e, 4f, 4g, 4h, 4k, 4l, 4m, 4n, and 5, to report financial information. An independent qualified public accountant's (IQPA's) opinion is not required for a MTIA.

7. Additional information required by the instructions to the above schedules, including, for example, the schedules of assets held for investment and the schedule of reportable transactions. For purposes of the schedule of reportable transactions, the 5% figure shall be determined by comparing the current value of the transaction at the transaction date with the current value of the investment account assets at the beginning of the applicable fiscal year of the MTIA. All attachments must be properly labeled.

Common/Collective Trust (CCT) and Pooled Separate Account (PSA)

A Form 5500 Return/Report is not required to be filed for a CCT or PSA. However, the administrator of a large plan or DFE that participates in a CCT or PSA that files as specified below is entitled to reporting relief that is not available to plans or DFEs participating in a CCT or PSA for which a Form 5500 Return/Report is not filed.

For reporting purposes, ''common/collective trust'' and ''pooled separate account'' are, respectively: (1) A trust maintained by a bank, trust company, or similar institution or (2) an account maintained by an insurance carrier, which are regulated, supervised, and subject to periodic examination by a state or Federal agency in the case of a CCT, or by a state agency in the case of a PSA, for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations as that term is used in Code section 1563. See 29 CFR 2520.103–3, 103–4, 103–5, and 103–9.

Note: For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3–101(h)(1)(iii) does not constitute a pooled separate account. The Form 5500 Return/Report submitted for a CCT or PSA must comply with the instructions for a Large Pension Plan, unless otherwise specified in the forms and instructions.

The CCT or PSA must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 9. Enter ''C'' or ''P, as appropriate, in Part I, line A.

2. Schedule D, to list all CCTs, PSAs, MTIAs, and 103–12 IEs in which the CCT or PSA invested at any time during the CCT or PSA year and to list in Part II all plans that participated in the CCT or PSA during its year.

3. Schedule H, except lines 1b(1), 1b(2), 1c(8), 1d, 1e, 1g, 1h, 1i, 2a, 2b(1)(E), 2e, 2f, and 2g, to report financial information. Part IV and an independent qualified public accountant's (IQPA's) opinion are not required for a CCT or PSA.

CAUTION: Different requirements apply to the Schedules D and H attached to the Form 5500 filed by plans and DFEs participating in CCTs and PSAs, depending upon whether a DFE Form 5500 Return/Report has been filed for the CCT or PSA. See the instructions for these schedules.

103–12 Investment Entity (103–12 IE)

DOL Regulation 2520.103–12 provides an alternative method of reporting for plans that invest in an entity (other than a MTIA, CCT, or PSA), whose underlying assets include ''plan assets'' within the meaning of 29 CFR 2510.3–101 of two or more plans that are not members of a ''related group'' of employee benefit plans. Such an entity for which a Form 5500 Return/Report is filed constitutes a ''103–12

IE.'' A Form 5500 Return/Report is not required to be filed for such entities; however, filing a Form 5500 Return/Report as a 103–12 IE provides certain reporting relief, including the limitation of the examination and report of the independent qualified public accountant (IQPA) provided by 29 CFR 2520.103–12(d), to participating plans and DFEs. For this reporting purpose, a ''related group'' of employee benefit plans consists of each group of two or more employee benefit plans (1) each of which receives 10% or more of its aggregate contributions from the same employer or from a member of the same controlled group of corporations (as determined under Code section 1563(a), without regard to Code section 1563(a)(4) thereof); or (2) each of which is either maintained by, or maintained pursuant to a collective-bargaining agreement negotiated by, the same employee organization or affiliated employee organizations. For purposes of this paragraph, an ''affiliate'' of an employee organization means any person controlling, controlled by, or under common control with such organization. See 29 CFR 2520.103–12.

The Form 5500 Return/Report submitted for a 103–12 IE must comply with the instructions for a Large Pension Plan, unless otherwise specified in the forms and instructions.

The 103–12 IE must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 9. Enter ''E'' in Part I, line A.

2. Schedule A (as many as needed), to report insurance, annuity and investment contracts held by the 103–12 IE.

3. Schedule C, if applicable, to report service provider information and any terminated accountants.

4. Schedule D, to list all CCTs, PSAs, and 103–12 IEs in which the 103–12 IE invested at any time during the 103–12 IE's year, and to list all plans that participated in the 103–12 IE during its year.

5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the 103–12 IE year, leases in default or classified as uncollectible, and nonexempt transactions.

6. Schedule H, except lines 1b(1), 1b(2), 1c(8), 1d, 1e, 1g, 1h, 1i, 2a, 2b(1)(E), 2e, 2f, 2g, 4a, 4e, 4f, 4g, 4h, 4j, 4k, 4l, 4m, 4n, and 5, to report financial information.

7. Additional information required by the instructions to the above schedules, including, for example, the report of the independent qualified public account (IQPA) identified on Schedule H, line 3c, and the schedule(s) of assets held for investment. All attachments must be properly labeled.

Group Insurance Arrangement (GIA)

Each welfare benefit plan that is part of a group insurance arrangement is exempted from the requirement to file a Form 5500 Return/Report if a consolidated Form 5500 Return/Report for all the plans in the arrangement was filed in accordance with 29 CFR 2520.104–43. For reporting purposes, a ''group insurance arrangement'' provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively-bargained multiple-employer plan), fully insures one or more welfare plans of each participating employer, uses a trust or other entity as the holder of the insurance contracts, and uses a trust as the conduit for payment of premiums to the insurance company.

The GIA must file:

1. Form 5500, except lines C and 2d. Enter ''G'' in Part I, line A.

2. Schedule A (as many as needed), to report insurance, annuity and investment contracts held by the GIA.

3. Schedule C, if applicable, to report service provider information and any terminated accountants.

4. Schedule D, to list all CCTs, PSAs, and 103–12 IEs in which the GIA invested at any time during the GIA year, and to list all plans that participated in the GIA during its year.

5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the GIA year, leases in default or classified as uncollectible, and nonexempt transactions.

6. Schedule H, except lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, and 5, to report financial information.

7. Additional information required by the instructions to the above schedules, including, for example, the report of the independent qualified accountant (IQPA) identified on Schedule H, line 3c, the schedules of assets held for investment and the schedule of reportable transactions. All attachments must be properly labeled.

Section 5: Line-by-Line Instructions

Instructions of Part I and Part II of 2009 Form 5500

Part I—Annual Return/Report Identification Information

File the 2009 Form 5500 Return/Report for a plan year that began in 2009 or a DFE year that ended in 2009. If the plan or DFE year is not the 2009 calendar year, enter the dates in Part I. The 2009 Form 5500 Return/Report must be filed electronically. Because of this, filings for 2009 plan years, including short plan years, cannot use prior year paper forms.

One Form 5500 is generally filed for each plan or entity described in the instructions to boxes in line A. Do not check more than one box.

A separate Form 5500 must be filed by each employer participating in a plan or program of benefits in which the funds attributable to each employer are available to pay benefits only for that employer's employees, even if the plan is maintained by a controlled group.

A ''controlled group'' is generally considered one employer for Form 5500 reporting purposes. A ''controlled group'' is a controlled group of corporations under Code section 414(b), a group of trades or businesses under common control under Code section 414(c), or an affiliated service group under Code section 414(m).

Box A (Multiemployer Plan). Check this box if the Form 5500 is filed for a multiemployer plan. A plan is a multiemployer plan if: (a) More than one employer is required to contribute, (b) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and (c) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made. A plan that has made a proper election under ERISA section 3(37)(G) and Code section 414(f)(6) on or before Aug. 17, 2007, is also a multiemployer plan. Participating employers do not file individually for these plans. See 29 CFR 2510.3–37.

Box A (Single-Employer Plan). Check this box if the Form 5500 is filed for a single-employer plan. A single-employer plan for this Form 5500 reporting purpose is an employee benefit plan maintained by one employer or one employee organization.

Box A (Multiple-Employer Plan). Check this box if the Form 5500 is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not one of the plans already described. Multiple-employer plans can be collectively bargained and collectively funded, but, if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3). Participating employers do not file individually for these plans. Do not check this box if the employers

maintaining the plan are members of the same controlled group.

Box A (Direct Filing Entity). Check this box and enter the correct letter from the following chart in the space provided to indicate the type of entity.

Type of entity	Enter the letter
Master trust investment account	M
Common/collective trust	C
Pooled separate account	P
103–12 investment entity	E
Group insurance arrangement	G

Note: A separate annual report with an ''M'' entered on Form 5500, box A, must be filed for each MTIA.

Box B (First Return/Report). Check this box if an annual return/report has not been previously filed for this plan or DFE. For the purpose of completing box B, the Form 5500-EZ is not considered an annual return/report.

Box B (Amended Return/Report). Check this box if this Form 5500 Return/Report is being submitted as an amended return/report to correct errors and/or omissions on a previously filed Form 5500 Return/Report for the 2009 plan year.

Box B (Final Return/Report). Check this box if this Form 5500 Return/Report is the last annual return/report required to be submitted for this plan. (See Final Return/Report.)

Note: Do not check box B (Final Return/Report) if ''4R'' is entered on line 8b for a welfare plan that is not required to file a Form 5500 Return/Report for the next plan year because the welfare plan has become eligible for an annual reporting exemption. For example, certain unfunded and insured welfare plans may be required to file the 2008 Form 5500 and be exempt from filing a Form 5500 Return/Report for the plan year 2009 if the number of participants covered as of the beginning of the 2009 plan year drops below 100. See Who Must File. Should the number of participants covered by such a plan increase to 100 or more in a future year, the plan must resume filing the Form 5500 Return/Report and enter ''4S'' on line 8b on that year's Form 5500. See 29 CFR 2520.104–20.

Box B (Short Plan Year Return/Report). Check this box if this Form 5500 Return/Report is being filed for a plan year of less than 12 months. Show the dates in the space provided.

Box C. Check box C when the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process (even if the plan is not established and administered by a joint board of trustees and even if only some of the employees covered by the plan are members of a collective bargaining unit that negotiates contributions and/or benefits). The contributions and/or benefits do not have to be identical for all employees under the plan.

Box D. Check the appropriate entry here if:

- You filed for an extension of time to file this form with the IRS using a completed Form 5558, Application for Extension of Time To File Certain Employee Plan Returns (maintain a copy of the Form 5558 with the filer's records).
- You are filing using the automatic extension of time to file the Form 5500 Return/Report until the due date of the Federal income tax return of the employer (maintain a copy of the employer's extension of time to file the income tax return with the filer's records).
- You are filing using a special extension of time to file the Form 5500 Return/Report that has been announced by the IRS, DOL, and PBGC. If you checked that you are using a special extension of time, enter a description of the extension of time in the space provided.
- You are filing under DOL's Delinquent Filer Voluntary Compliance (DVFC) Program.

Part II—Basic Plan Information

Line 1a. Enter the formal name of the plan or DFE, or enough information to identify the plan or DFE. Abbreviate if necessary. If an annual return/report has previously been filed on behalf of the plan, regardless of the type of Form that was filed (Form 5500, Form 5500-EZ, Form 5500-SF) use the same abbreviation as was used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated.

Line 1b. Enter the three-digit plan or entity number (PN) the employer or plan administrator assigned to the plan or DFE. This three-digit number, in conjunction with the employer identification number (EIN) entered on line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan or DFE.

Start at 001 for plans providing pension benefits or DFEs as illustrated in the table below. Start at 501 for welfare plans and GIAs. Do not use 888 or 999. Once you use a plan or DFE number, continue to use it for that plan or DFE on all future filings with the IRS, DOL, and PBGC. Do not use it for any other plan or DFE, even if the first plan or DFE is terminated.

For each Form 5500 with the same EIN (line 2b), when	Assign PN
Part II, box 8a is checked, or Part I, A is checked and an M, C, P, or E is entered.	001 to the first plan or DFE. Consecutively number others as 002, 003, . . .
Part II, Box 8b is checked and 8a is not checked, or Part I, A is checked and a G is entered.	501 to the first plan or GIA. Consecutively number others as 502, 503, . . .

Line 1c. Enter the date the plan first became effective.

Line 2a.

1. Enter the name of the plan sponsor or, in the case of a Form 5500 filed for a DFE, the name of the insurance company, financial institution, or other sponsor of the DFE (e.g., in the case of a GIA, the trust or other entity that holds the insurance contract, or in the case of an MTIA, one of the sponsoring employers). If the plan covers only the employees of one employer, enter the employer's name.

The term ''plan sponsor'' means:

- The employer, for an employee benefit plan that a single-employer established or maintains;
- The employee organization in the case of a plan of an employee organization; or
- The association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Note: In the case of a multiple-employer plan, if an association or similar entity is not the sponsor, enter the name of a participating employer as sponsor. A plan of a controlled group of corporations should enter the name of one of the sponsoring members. In either case, the same name must be used in all subsequent filings of the Form 5500 Return/Report for the multiple-employer plan or controlled group (see instructions to line 4 concerning change in sponsorship).

2. Enter any ''in care of '' (C/O) name.

3. Enter the street address. A post office box number may be entered if the Post Office does not deliver mail to the sponsor's street address.

4. Enter the name of the city.

5. Enter the two-character abbreviation of the U.S. state or possession and zip code.

6. Enter the foreign routing code, if applicable. Leave U.S. state and zip code blank if entering a foreign routing code and country name.

7. Enter the foreign country, if applicable.

8. Enter the D/B/A (doing business as) or trade name of the sponsor if different from the plan sponsor's name.

9. Enter any second address. Use only a street address, not a P.O. Box, here.

Line 2b. Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer, for example, 00–1234567. In the case of a DFE, enter the EIN assigned to the CCT, PSA, MTIA, 103–12 IE, or GIA. Do not use a social security number in lieu of an EIN. The Form 5500 is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this line may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

A multiple-employer plan or plan of a controlled group of corporations should use the EIN of the sponsor identified in line 2a. This EIN must be used in all subsequent filings of the Form 5500 Return/Report for these plans (see instructions to line 4 concerning change in EIN).

If the plan sponsor is a group of individuals, get a single EIN for the group. When you apply for a number, enter on line 1 of Form SS–4 the name of the group, such as ''Joint Board of Trustees of the Local 187 Machinists'' Retirement Plan.'' EINs may be obtained by filing Form SS–4 as explained above.

Note: EINs for funds (trusts or custodial accounts) associated with plans (other than DFEs) are generally not required to be furnished on the Form 5500; the IRS will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS–4 as explained above. Plan sponsors should use the trust EIN described above when opening a bank account or conducting other transactions for a trust that require an EIN.

Line 2c. Enter the telephone number for the plan sponsor.

Line 2d. Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes in Form 5500 Codes for Principal Business Activity, contained in these Instructions. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a. Please limit your response to the information required below:

1. Enter the name of the plan administrator unless the administrator is the sponsor identified in line 2 or the Form 5500 is submitted for a DFE (Part I, box A should be checked and enter the appropriate DFE code). If this is the case, enter the word ''same'' on line 3a and leave the remainder of line 3a, and all of lines 3b and 3c blank.

Plan administrator means:

- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by regulations if an administrator is not designated and a plan sponsor cannot be identified.

2. Enter any ''in care of'' (C/O) name.

3. Enter the street address. A post office box number may be entered if the Post Office does not deliver mail to the administrator's street address.

4. Enter the name of the city.

5. Enter the two-character abbreviation of the U.S. state or possession and zip code.

6. Enter the foreign routing code and foreign country, if applicable. Leave U.S. state and zip code blank if entering foreign routing code and country information.

Line 3b. Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500 reporting purposes. If the plan administrator does not have an EIN, apply for one as explained in the instructions for line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Note: Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must get an EIN.

Line 4. If the plan sponsor's or DFE's name and/or EIN have changed since the last return/report was filed for this plan or DFE, enter the plan sponsor's or DFE's name, EIN, and the plan number as it appeared on the last return/report filed.

CAUTION: The failure to indicate on Line 4 that a plan was previously identified by a different Employer Identification Number (EIN) or Plan Number (PN) could result in correspondence from the DOL and the IRS.

Lines 5 and 6. All filers must complete both lines 5 and 6 unless the Form 5500 is filed for an IRA Plan eligible for Limited Pension Plan Reporting or for a DFE.

The description of ''participant'' in the instructions below is only for purposes of these lines.

For welfare plans, the number of participants should be determined by reference to 29 CFR 2510.3–3(d)(1), which provides that an individual becomes a participant covered under an employee welfare benefit plan on the earlier of: the date designated by the plan as the date on which the individual begins participation in the plan; the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or the date on which the individual makes a contribution to the plan, whether voluntary or mandatory. ''Participants'' includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. Covered dependents are not counted as participants or beneficiaries.

A child who is an ''alternate recipient'' entitled to health benefits under a qualified medical child support order should not be counted as a participant for lines 5 and 6. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual (A) is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and (B) is not designated by the plan as a participant. See 29 CFR 2510.3–3(d)(2).

TIP: Before counting the number of participants in welfare plans, it is important for Form 5500 Return/Report purposes to determine whether the plan sponsor has established one or more plans. As a matter of plan design, plan sponsors can offer benefits through various structures and combinations. For example, a plan sponsor could create (i) one plan providing major medical benefits, dental benefits, and vision benefits, (ii) two plans with one providing major medical benefits and the other providing self-insured dental

and vision benefits, or (iii) three separate plans. You must review the governing documents and actual operations to determine whether welfare benefits are being provided under a single plan or separate plans.

The fact that you have separate insurance policies for each different welfare benefit does not necessarily mean that you have separate plans. Some plan sponsors use a ''wrap'' document to incorporate various benefits and insurance policies into one comprehensive plan. In addition, whether a benefit arrangement is deemed to be a single plan may be different for purposes other than the Form 5500 Return/Report. For example, special rules may apply for purposes of HIPAA, COBRA, and Internal Revenue Code compliance. If you need help determining whether you have a single welfare benefit plan for purposes of the Form 5500 Return/Report, you should consult a qualified benefits consultant or legal counsel.

For pension benefit plans, ''alternate payees'' entitled to benefits under a qualified domestic relations order (QDRO) are not to be counted as participants for these lines.

For pension benefit plans, ''participant'' means any individual who is included in one of the categories below:

1. Active participants include any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This category includes any individuals who are eligible to elect to have the employer make payments to a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This category does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a ''cash-out'' distribution or deemed distribution of their entire nonforfeitable accrued benefit.

2. Retired or separated participants receiving benefits are any individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

3. Other retired or separated participants entitled to future benefits are any individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Line 6g. Enter the number of participants included on line 6f (total participants at the end of the plan year) who have account balances. For example, for a Code section 401(k) plan the number entered on line 6g should be the number of participants counted on line 6f who have made a contribution to the plan for this plan year or any prior plan year. Defined benefit plans should leave line 6g blank.

Line 6h. Include any individual who terminated employment during this plan year, whether or not he or she (a) incurred a break in service, (b) received an irrevocable commitment from an insurance company to pay all the benefits to which he or she is entitled under the plan, and/or (c) received a cash distribution or deemed cash distribution of his or her nonforfeitable accrued benefit. Multiemployer plans and multiple-employer plans that are collectively bargained do not have to complete line 6h.

Line 7. For multiemployer plans, enter the total number of employers obligated to contribute to the plan. For purposes of line 7 of the Form 5500, an employer obligated to contribute means each employer for the 2009 plan year, who is a party to the collective bargaining agreement(s) pursuant to which the plan is maintained or who otherwise may be subject to withdrawal liability pursuant to section 4203 of the Act. Any two or more contributing entities (e.g., places of business with separate collective bargaining agreements) that have the same nine-digit employer identification number (EIN) must be aggregated and counted as a single-employer for this purpose.

Line 8—Benefits Provided Under the Plan. In Line 8a or 8b, as appropriate, enter all applicable plan characteristic codes from the List of Plan Characteristic Codes in these Instructions that describe the characteristics of the plan being reported.

CAUTION: Applicable to plan sponsors of Puerto Rico plans. Enter condition code 3C only in instances where there was no election made under section 1022(i)(2) of ERISA and, therefore, the plan does not intend to qualify under section 401(a) of the Code. If an election was made under section 1022(i)(2) of ERISA, do not enter condition code 3C.

Line 9—Funding and Benefit Arrangements. Check all boxes that apply to indicate the funding and benefit arrangements used during the plan year. The ''funding arrangement'' is the method for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides benefits. The ''benefit arrangement'' is the method by which the plan provides benefits to participants.

For the purposes of line 9:

''Insurance'' means the plan has an account, contract, or policy with an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization) during the plan or DFE year. (This includes investments with insurance companies such as guaranteed investment contracts (GICs).) An annuity account arrangement under Code section 403(b)(1) that is required to complete the Form 5500 Return/Report should mark ''insurance'' for both the plan funding arrangement and plan benefit arrangement. Do not check ''insurance'' if the sole function of the insurance company was to provide administrative services.

''Code section 412(e)(3) insurance contracts'' are contracts that provide retirement benefits under a plan that are guaranteed by an insurance carrier. In general, such contracts must provide for level premium payments over the individual's period of participation in the plan (to retirement age), premiums must be timely paid as currently required under the contract, no rights under the contract may be subject to a security interest, and no policy loans may be outstanding. If a plan is funded exclusively by the purchase of such contracts, the otherwise applicable minimum funding requirements of section 412 of the Code and section 302 of ERISA do not apply for the year and neither the Schedule MB nor SB is required to be filed.

''Trust'' includes any fund or account that receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company. A custodial account arrangement under Code section 403(b)(7) that is required to complete

the Form 5500 Return/Report should mark ''trust'' for both the plan funding arrangement and plan benefit arrangement.

''General assets of the sponsor'' means either the plan had no assets or some assets were commingled with the general assets of the plan sponsor prior to the time the plan actually provided the benefits promised.

Example. If the plan holds all its assets invested in registered investment companies and other non-insurance company investments until it purchases annuities to pay out the benefits promised under the plan, box 9a(3) should be checked as the funding arrangement and box 9b(1) should be checked as the benefit arrangement.

Note: An employee benefit plan that checks boxes 9a(1), 9a(2), 9b(1), and/or 9b(2) must attach Schedule A (Form 5500), Insurance Information, to provide information concerning each contract year ending with or within the plan year. See the instructions to the Schedule A and enter the number of Schedules A on line 10b(3), if applicable.

Line 10. Check the boxes on line 10 to indicate the schedules being filed and, where applicable, count the schedules and enter the number of attached schedules in the space provided.

2009 Instructions for Schedule A (Form 5500) Insurance Information

General Instructions

Who Must File

Schedule A (Form 5500), Insurance Information (Schedule A), must be attached to the Form 5500 filed for every defined benefit pension plan, defined contribution pension plan, and welfare benefit plan required to file a Form 5500 if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization). This includes investment contracts with insurance companies such as guaranteed investment contracts (GICs). In addition, Schedules A must be attached to a Form 5500 filed for GIAs, MTIAs, and 103–12 IEs for each insurance or annuity contract held in the MTIA, or 103–12 IE or by the GIA.

TIP: If Form 5500 line 9a(1), 9a(2), 9b(1), or 9b(2) is checked, indicating that either the plan funding arrangement or plan benefit arrangement includes an account, policy, or contract with an insurance company (or similar organization), at least one Schedule A would be required to be attached to the Form 5500 filed for the pension or welfare plan to provide information concerning the contract year ending with or within the plan year.

Do not file Schedule A for a contract that is an Administrative Services Only (ASO) contract, a fidelity bond or policy, or a fiduciary liability insurance policy. Also, if a Schedule A for a contract or policy is filed as part of a Form 5500 Return/Report for a MTIA or 103–12 IE that holds the contract, do not include a Schedule A for the contract or policy on the Form 5500s filed for the plans participating in the MTIA or 103–12 IE.

Check the Schedule A box on the Form 5500 (Part II, line 10b(3)), and enter the number attached in the space provided if one or more Schedules A are attached to the Form 5500.

Specific Instructions

Information entered on Schedule A should pertain to the insurance contract or policy year ending with or within the plan year (for reporting purposes, a year cannot exceed 12 months).

Example: If an insurance contract year begins on July 1 and ends on June 30, and the plan year begins on January 1 and ends on December 31, the information on the Schedule A attached to the 2009 Form 5500 should be for the insurance contract year ending on June 30, 2009.

Exception: If the insurance company maintains records on the basis of a plan year rather than a policy or contract year, the information entered on Schedule A may pertain to the plan year instead of the policy or contract year.

Include only the contracts issued to or held by the plan, GIA, MTIA, or 103–12 IE for which the Form 5500 Return/Report is being filed.

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule A is attached. The plan name may be abbreviated.

Do not use a social security number in lieu of an EIN. The Schedule A and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule A or any of its attachments may result in the rejection of the filing. EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov*. The EBSA does not issue EINs.

Part I—Information Concerning Insurance Contract Coverage, Fees, and Commissions

Line 1(c). Enter the code number assigned by the National Association of Insurance Commissioners (NAIC) to the insurance company. If none has been assigned, enter zeros (-0-) in the spaces provided.

Line 1(d). If individual policies with the same carrier are grouped as a unit for purposes of this report, and the group does not have one identification number, you may use the contract or identification number of one of the individual contracts, provided this number is used consistently to report these contracts as a group and the plan administrator maintains the records necessary to disclose all the individual contract numbers in the group upon request. Use separate Schedules A to report individual contracts that cannot be grouped as a unit.

Line 1(e). Since plan coverage may fluctuate during the year, the administrator should estimate the number of persons that were covered by the contract at the end of the policy or contract year. Where contracts covering individual employees are grouped, compute entries as of the end of the plan year.

Lines 1(f) and (g). Enter the beginning and ending dates of the policy year for the contract identified in 1(d). Enter ''N/A'' in 1(f) if separate contracts covering individual employees are grouped.

Line 2. Report on line 2 the totals of all insurance fees and commissions directly or indirectly attributable to the contract or policy placed with or retained by the plan.

Totals. Enter on line 2 the total of all such commissions and fees paid to agents, brokers, and other persons listed on line 3. Complete a separate line 3 item (elements (a) through (e)) for each person listed.

For purposes of lines 2 and 3, commissions and fees include sales and base commissions and all other monetary and non-monetary forms of compensation where the broker's, agent's, or other person's eligibility for the payment or the amount of the payment is based, in whole or in part, on the value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by an ERISA plan, including, for example, persistency and profitability bonuses. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported in line 2 and in line 3, elements (b) and/or (c) as appropriate.

Insurers must provide plan administrators with a proportionate allocation of commissions and fees attributable to each contract. Any reasonable method of allocating commissions and fees to policies or contracts is acceptable, provided the method is disclosed to the plan administrator. A reasonable allocation method could allocate fees and commissions to a Schedule A based on a calendar year calculation even if the plan year or policy year was not a calendar year. For additional information on these Schedule A reporting requirements, ''*see*'' ERISA Advisory Opinion 2005–02A, available on the Internet at *http://www.dol.gov/ebsa*.

Where benefits under a plan are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, and the contract or policy is reported on a Schedule A, payments of reasonable monetary compensation by the insurer out of its general assets to affiliates or third parties for performing administrative activities necessary for the insurer to fulfill its contractual obligation to provide benefits, where there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, then the payments for administrative services by the insurer to the affiliates or third parties do not need to be reported on lines 2 and 3 of Schedule A. This would include compensation for services such as recordkeeping and claims processing services provided by a third party pursuant to a contract with the insurer to provide those services but would not include compensation provided by the insurer incidental to the sale or renewal of a policy, such as finder's fees, insurance brokerage commissions and fees, or similar fees.

Schedule A reporting also is not required for compensation paid by the insurer to a ''general agent'' or ''manager'' for that general agent's or manager's management of an agency or performance of administrative functions for the insurer. For this purpose, (1) a ''general agent'' or ''manager'' does not include brokers representing insureds, and (2) payments would not be treated as paid for managing an agency or performance of administrative functions where the recipient's eligibility for the payment or the amount of the payment is dependent or based on the value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by ERISA plan(s).

Schedule A reporting is not required for occasional gifts or meals of insubstantial value which are tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. For this exemption to be available, the gift or gratuity must be both occasional and insubstantial. For this exemption to apply, the gift must be valued at less than $50, the aggregate value of gifts from one source in a calendar year must be less than $100, but gifts with a value of less than $10 do not need to be counted toward the $100 annual limit. If the $100 aggregate value limit is exceeded, then the aggregate value of all the gifts will be reportable. Gifts from multiple employees of one service provider should be treated as originating from a single source when calculating whether the $100 threshold applies. On the other hand, in applying the threshold to an occasional gift received from one source by multiple employees of a single service provider, the amount received by each employee should be separately determined in applying the $50 and $100 thresholds. For example, if six employees of a broker attend a business conference put on by an insurer designed to educate and explain the insurer's products for employee benefit plans, and the insurer provides, at no cost to the attendees, refreshments valued at $20 per individual, the gratuities would not be reportable on lines 2 and 3 of the Schedule A even though the total cost of the refreshments for all the employees would be $120. These thresholds are for purposes of Schedule A reporting. Filers are cautioned that the payment or receipt of gifts and gratuities of any amount by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Line 3. Identify agents, brokers, and other persons individually in descending order of the amount paid. Complete as many entries as necessary to report all required information. Complete elements (a) through (e) for each person as specified below.

Element (a). Enter the name and address of the agents, brokers, or other persons to whom commissions or fees were paid.

Element (b). Report all sales and base commissions here. For purposes of this element, sales and/or base commissions are monetary amounts paid by an insurer that are charged directly to the contract or policy and that are paid to a licensed agent or broker for the sale or placement of the contract or policy. All other payments should be reported in element (c) as fees.

Element (c). Fees to be reported here represent payments by an insurer attributable directly or indirectly to a contract or policy to agents, brokers, and other persons for items other than sales and/or base commissions (e.g., service fees, consulting fees, finders' fees, profitability and persistency bonuses, awards, prizes, and non-monetary forms of compensation). Fees paid to persons other than agents and brokers should be reported here, not in Parts II and III on Schedule A as acquisition costs, administrative charges, etc.

Element (d). Enter the purpose(s) for which fees were paid.

Element (e). Enter the most appropriate organization code for the broker, agent, or other person entered in element (a).

Code Type of Organization

1—Banking, Savings & Loan Association, Credit Union, or other similar financial institution.

2—Trust Company.

3—Insurance Agent or Broker.

4—Agent or Broker other than insurance.

5—Third party administrator.

6—Investment Company/Mutual Fund.

7—Investment Manager/Adviser.

8—Labor Union.

9—Foreign entity (e.g., an agent or broker, bank, insurance company, etc., not operating within the jurisdictional boundaries of the United States).

0—Other.

For plans, GIAs, MTIAs, and 103–12 IEs required to file Part I of Schedule C, commissions and fees listed on the Schedule A are also to be reported on Schedule C, unless the only compensation in relation to the plan or DFE consists of insurance fees and commissions listed on the Schedule A.

Part II—Investment and Annuity Contract Information

Line 4. Enter the current value of the plan's interest at year end in the contract reported on line 7, e.g., deposit administration (DA), immediate participation guarantee (IPG), or guaranteed investment contracts (GIC).

Exception: Contracts reported on line 7 need not be included on line 4 if (1) the Schedule A is filed for a defined benefit pension plan and the contract was entered into before March 20, 1992, or (2) the Schedule A is filed for a defined contribution pension plan and the contract is a fully benefit-responsive contract, i.e., it provides a liquidity guarantee by a financially responsible third party of principal and previously accrued interest for liquidations, transfers, loans, or hardship withdrawals initiated by plan participants exercising their rights to withdraw, borrow, or transfer funds

under the terms of a defined contribution plan that does not include substantial restrictions to participants' access to plan funds.

Important Reminder. Plans may treat multiple individual annuity contracts, including Code section 403(b)(1) annuity contracts, issued by the same insurance company as a single group contract for reporting purposes on Schedule A.

Line 6a. The rate information called for here may be furnished by attaching the appropriate schedules of current rates filed with the appropriate state insurance department or by providing a statement regarding the basis of the rates. Enter ''see attached'' if appropriate.

Lines 7a through 7f. Report contracts with unallocated funds. Do not include portions of these contracts maintained in separate accounts. Show deposit fund amounts rather than experience credit records when both are maintained.

Part III—Welfare Benefit Contract Information

Line 8i. Report a stop-loss insurance policy that is an asset of the plan.

Note: Employers sponsoring welfare plans may purchase a stop-loss insurance policy with the employer as the insured to help the employer manage its risk associated with its liabilities under the plan. These employer contracts with premiums paid exclusively out of the employer's general assets without any employee contributions generally are not plan assets and are not reportable on Schedule A.

Part IV—Provision of Information

The insurance company, insurance service, or other similar organization is required under ERISA section 103(a)(2) to provide the plan administrator with the information needed to complete this return/report. If you do not receive this information in a timely manner, contact the insurance company, insurance service, or other similar organization. If information is missing on Schedule A due to a refusal to provide information, check ''Yes'' on line 11 and enter a description of the information not provided on line 12.

TIP. As noted above, the insurance company, insurance service, or other similar organization is statutorily required to provide all of the information necessary to complete the return/report, but need not provide the information on a Schedule itself. If you do not receive this information in a timely manner, you should contact the insurance company, insurance service, or other similar organization and advise them that the plan administrator will identify the provider on the Schedule A if the required information is not provided.

2009 Instructions for Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information)

[reserved]

2009 Instructions for Schedule SB (Single-employer Defined Benefit Plan Actuarial Information)

[reserved]

2009 Instructions for Schedule C (Form 5500) Service Provider Information

Who Must File

Schedule C (Form 5500), Service Provider Information (Schedule C) must be attached to a Form 5500 filed for a large pension or welfare benefit plan, an MTIA, a 103–12IE, or a GIA, to report certain information concerning service providers. Remember to check the Schedule C box on the form 5500 (Part II, line 10b(4)) if a Schedule C is attached to the Form 5500.

Part I of the Schedule C must be completed to report persons who rendered services to or who had transactions with the plan or DFE during the reporting year if the person received, directly or indirectly, $5,000 or more in reportable compensation in connection with services rendered to the plan or DFE, or their position with the plan except:

1. Employees of the plan whose only compensation in relation to the plan was less than $25,000 for the plan year;

2. Employees of the plan sponsor or other business entity where the plan sponsor or business entity is reported on the Schedule C as a service provider, provided the employee did not separately receive reportable direct or indirect compensation in relation to the plan;

3. Persons whose only compensation in relation to the plan consists of insurance fees and commissions listed in a Schedule A filed for the plan; and

4. Payments made directly by the plan sponsor that are not reimbursed by the plan.

Only line 1 of Part I of the Schedule C must be completed for persons who received only ''eligible indirect compensation'' as defined below.

Part II of the Schedule C must be completed to report service providers who fail or refuse to provide information necessary to complete Part I of this Schedule.

Part III of the Schedule C must be completed to report a termination in the appointment of an accountant or enrolled actuary during the 2009 plan year.

TIP: Health and welfare plans that meet the conditions of the limited exemption at 2520.104–44 or Technical Release 92–01 are not required to complete and file a Schedule C.

GENERAL INSTRUCTIONS

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule C is attached. The plan name may be abbreviated.

Do not use a social security number in line D in lieu of an EIN. The Schedule C and its attachments are open to public inspection, and the contents are public information subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule C or any of its attachments may result in the rejection of the filing. EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Do not list the PBGC or the IRS on Schedule C as service providers.

Either the cash or accrual basis may be used for the recognition of transactions reported on the Schedule C as long as you use one method consistently.

If service provider compensation is reported on a Schedule C filed as part of a Form 5500 filed for a MTIA or 103–12IE, do not report the same compensation again on the Schedules C filed for the plans that participate in the MTIA or 103–12IE.

SPECIFIC INSTRUCTIONS

Part I—Service Provider Information

You must enter the information required for each person receiving $5,000 or more in total direct or indirect compensation (i.e., money or anything else of value) in connection with services rendered to the plan or the person's position with the plan during the plan year.

Example. A plan had service providers, A, B, C, and D, who received $12,000, $6,000, $4,500, and $430, respectively, in direct and indirect compensation from the plan. Service providers A and B must be identified separately by name, EIN, etc. As service providers C and D each received less than $5,000, they do not need to be reported on the Schedule C.

For Schedule C purposes, reportable compensation includes money and any other thing of value (for example, gifts, awards, trips) received by a person,

directly or indirectly, from the plan (including fees charged as a percentage of assets and deducted from investment returns) in connection with services rendered to the plan, or the person's position with the plan. The term ''person'' includes individuals, trades and businesses (whether incorporated or unincorporated). *See* ERISA section 3(9). Persons that provide investment management, recordkeeping, claims processing, participant communication, brokerage, and other services to the plan as part of an investment contract are considered to be providing services to the plan for purposes of Schedule C reporting and would be required to be identified in Part I if they received $5,000 or more in reportable compensation for providing those services. The investment of plan assets and payment of premiums for insurance contracts, however, are not in and of themselves payments for services rendered to the plan for purposes of Schedule C reporting and the investment and payment of premiums themselves are not reportable compensation for purposes of Part I.

Direct Compensation: Payments made directly by the plan for services rendered to the plan or because of a person's position with the plan are reportable as direct compensation. Direct payments by the plan would include, for example, direct payments by the plan out of a plan account, charges to plan forfeiture accounts and fee recapture accounts, charges to a plan's trust account before allocations are made to individual participant accounts, and direct charges to plan participant individual accounts. Payments made by the plan sponsor, which are not reimbursed by the plan, are not subject to Schedule C reporting requirements even if the sponsor is paying for services rendered to the plan.

Indirect Compensation: Compensation received from sources other than directly from the plan or plan sponsor is reportable on Schedule C as indirect compensation from the plan if the compensation was received in connection with services rendered to the plan during the plan year or the person's position with the plan. For this purpose, compensation is considered to have been received in connection with the person's position with the plan or for services rendered to the plan if the person's eligibility for a payment or the amount of the payment is based, in whole or in part, on services that were rendered to the plan or on a transaction or series of transactions with the plan. Indirect compensation would not include compensation that would have been received had the service not been rendered or the transaction had not taken place and that cannot be reasonably allocated to the services performed or transaction(s) with the plan. Examples of reportable indirect compensation include fees and expense reimbursement payments received by a person from mutual funds, bank commingled trusts, insurance company pooled separate accounts, and other separately managed accounts and pooled investment funds in which the plan invests that are charged against the fund or account and reflected in the value of the plan's investment (such as management fees paid by a mutual fund to its investment adviser, sub-transfer agency fees, shareholder servicing fees, account maintenance fees, and 12b–1 distribution fees). Other examples of reportable indirect compensation are finder's fees, float revenue, brokerage commissions (regardless of whether the broker is granted discretion), research or other products or services, other than execution, received from a broker-dealer or other third party in connection with securities transactions (soft dollars), and other transaction based fees received in connection with transactions or services involving the plan whether or not they are capitalized as investment costs.

Special Rules for non-monetary compensation of insubstantial value, guaranteed benefit insurance policies, bundled service arrangements, and allocating compensation among multiple plans:

Excludable Non-Monetary Compensation: You may exclude non-monetary compensation of insubstantial value (such as gifts or meals of insubstantial value) which is tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. The gift or gratuity must be valued at less than $50, and the aggregate value of gifts from one source in a calendar year must be less than $100, but gifts with a value of less than $10 do not need to be counted toward the $100 limit. If the $100 aggregate value limit is exceeded, then the value of all the gifts will be reportable. Gifts received by one person from multiple employees of one entity must be treated as originating from a single source when calculating whether the $100 threshold applies. On the other hand, gifts received from one person by multiple employees of one entity can be treated as separate compensation when calculating the $50 and $100 thresholds.

CAUTION: These thresholds are for purposes of Schedule C reporting only. Filers are strongly cautioned that gifts and gratuities of any amount paid to or received by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Fully Insured Group Health And Similarly Fully Insured Benefits: Where benefits under a plan are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, and the contract or policy is reported on a Schedule A, payments of reasonable monetary compensation by the insurer out of its general assets to persons for performing administrative activities necessary for the insurer to fulfill its contractual obligation to provide benefits, where there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, would not be treated as indirect compensation for services provided to the plan for Schedule C reporting purposes. This would include compensation for services such as recordkeeping and claims processing services provided by a third party pursuant to a contract with the insurer to provide those services but would not include compensation provided by the insurer incidental to the sale or renewal of a policy, such as finder's fees, insurance brokerage commissions and fees, or similar fees. Insurance investment contracts are not eligible for this exception.

Bundled Service Arrangements: For Schedule C reporting purposes, a bundled service arrangement includes any service arrangements where the plan hires one company to provide a range of services either directly from the company, through affiliates or subcontractors, or through a combination, which are priced to the plan as a single package rather than on a service-by-service basis. A bundled service arrangement would also include an investment transaction in which the plan receives a range of services either directly from the investment provider, through affiliates or subcontractors, or through a combination.

Direct payments by the plan to the bundled service provider should be reported as direct compensation to the bundled service provider. Such direct payments by the plan do not need to be allocated among affiliates or subcontractors and also reported as indirect compensation received by the affiliates or subcontractors unless the amount paid to the affiliate or subcontractor is set on a per transaction basis, e.g., brokerage fees and commissions.

Fees charged to the plan's investment and reflected in the net value of the investment, such as management fees paid by mutual funds to their investment advisers, float revenue,

commissions (including ''soft dollars''), finder's fees, 12b–1 distribution fees, account maintenance fees, and shareholder servicing fees, must be treated as separate compensation by the person receiving the fee for purposes of Schedule C reporting. For each person who is a fiduciary to the plan or provides one or more of the following services to the plan—contract administrator, consulting, investment advisory (plan or participants), investment management, securities brokerage, or recordkeeping—commissions and other transaction based fees, finder's fees, float revenue, soft dollar and other non-monetary compensation, would also be required to be treated as separate compensation for Schedule C purposes even if those fees were paid from mutual fund management fees or other fees charged to the plan's investment and reflected in the net value of the investment. Other revenue sharing payments among members of a bundled service arrangement do not need to be allocated among affiliates or subcontractors and treated as indirect compensation received by the affiliates or subcontractors in determining whether the affiliate or subcontractor must be separately identified on line 2 of the Schedule C.

Allocating Compensation Among Multiple Plans: Where reportable compensation is received in connection with several plans or DFEs, any reasonable method of allocating the compensation among the plans or DFEs may be used provided that the allocation method is disclosed to the plan administrator. In calculating the $5,000 threshold for purposes of determining whether a person must be identified in Part I, include the amount of compensation received by the person that is attributable to the plan or DFE filing the Form 5500, not the aggregate amount received in connection with all the plans or DFEs.

Affiliates: For purposes of Schedule C reporting, an ''affiliate'' of a person includes any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person applying principles consistent with the regulations prescribed under section 414(c) of the Code.

Line 1. Check ''Yes'' or ''No'' on line 1a to indicate whether you are relying on the alternative reporting option for a person or persons who received only eligible indirect compensation. If you check ''Yes'' on line 1a, provide as many entries in line 1b as necessary to identify the person or persons who provided you with the necessary disclosures regarding the indirect compensation.

If any indirect compensation is either not of the type described below or if the plan did not receive the written disclosures described below, the indirect compensation is not ''eligible indirect compensation'' for purposes of Part I.

(1) Eligible Indirect Compensation: Indirect compensation that is fees or expense reimbursement payments charged to investment funds and reflected in the value of the investment or return on investment of the participating plan or its participants finders' fees ''soft dollar'' revenue, float revenue, and/or brokerage commissions or other transaction-based fees for transactions or services involving the plan that were not paid directly by the plan or plan sponsor (whether or not they are capitalized as investment costs).

(2) Written Disclosures: For the indirect compensation to be eligible indirect compensation you must have received written materials that disclosed and described (a) the existence of the indirect compensation; (b) the services provided for the indirect compensation or the purpose for payment of the indirect compensation; (c) the amount (or estimate) of the compensation or a description of the formula used to calculate or determine the compensation; and (d) the identity of the party or parties paying and receiving the compensation. The written disclosures for a bundled arrangement must separately disclose and describe each element of indirect compensation that would be required to be separately reported if you were not relying on this alternative reporting option.

CAUTION: If any person received eligible indirect compensation and either direct compensation and/or indirect compensation that does not meet the requirements of this line to be eligible indirect compensation, you cannot rely on the alternative reporting option for that person and must complete line 2 for each such person who received $5,000 or more in direct and indirect compensation.

Line 2. Except for those persons for whom you answered ''Yes'' to line 1 above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation. Start with the most highly compensated and list in descending order of compensation. Enter in element (a) the person's name and complete elements (a) through (h) as specified below. Use as many entries as necessary to list all persons and information required to be reported.

Element (a). Enter the EIN for the person identified in element (a). If the name of an individual is entered in element (a) and the individual does not have an EIN, enter the EIN of the individual's employer. If the person is self-employed and does not have an EIN, you may enter the person's address and telephone number. Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule C or any of its attachments may result in the rejection of the filing.

Element (b). Select from the list below all codes that describe the services provided and compensation received. Enter as many codes as apply.

10 Accounting (including auditing)
11 Actuarial
12 Claims processing

13 Contract Administrator
14 Plan Administrator
15 Recordkeeping and information management (computing, tabulating, data processing, etc.)
16 Consulting (general)
17 Consulting (pension)
18 Custodial (other than securities)
19 Custodial (securities)
20 Trustee (individual)
21 Trustee (bank, trust company or similar financial institution)
22 Insurance agents and brokers

50 Direct payments from the plan
51 Investment management fees paid directly by plan
52 Investment management fees paid indirectly by plan (e.g., mutual fund investment adviser management fees)
53 Insurance brokerage commissions and fees
54 Sales loads (front end and deferred)
55 Other commissions

56 Non-monetary compensation
57 Redemption fees
58 Product termination fees (surrender charges, etc.)
59 Shareholder servicing fees
60 Sub-transfer agency fees
61 Finders fees/placement fees
62 Float revenue

23 Insurance services	63 Distribution (12b–1) fees
24 Trustee (discretionary)	64 Recordkeeping fees
25 Trustee (directed)	65 Shareholder servicing fees
26 Investment advisory (participants)	65 Account maintenance fees
27 Investment advisory (plan)	66 Insurance mortality and expense charge
28 Investment management	67 Other insurance wrap fees
29 Legal	68 ''Soft dollar'' commissions
30 Employee (plan)	69 Insurance brokerage commissions and fees
31 Named fiduciary	70 Consulting fees
32 Real estate brokerage	71 Securities brokerage commissions and fees
33 Securities brokerage	72 Other investment fees and expenses
34 Valuation (appraisals, etc.)	73 Other insurance fees and expenses
35 Employee (plan sponsor)	
36 Copying and duplicating	
37 Participant loan processing	
38 Participant communication	
39 Investment Company/Mutual Fund	
40 Foreign entity (e.g., an agent or broker, bank, insurance company, etc. not operating within jurisdictional boundaries of the United States	
49 Other Services	99 Other Fees

Element (c). Enter any relationship of the person identified in element (a) to the plan sponsor, to the participating employer or employee organization, or to any person known to be a party-in-interest, for example, employee of employer, vice-president of employer, union officer, affiliate of plan recordkeeper, etc.

Element (d). Enter the total amount of compensation received directly from the plan for services rendered to the plan during the plan year. If a service provider charges the plan a fee or commission, but agrees to offset the fee or commission with any revenue received from a party other than the plan or plan sponsor, for example, as part of a commission recapture or other offset arrangement, only the amount paid directly by the plan after any revenue sharing offset should be entered in Element (d). Do not leave element (d) blank—if no direct compensation was received, enter ''0.''

Element (e). Check ''Yes'' if the person identified in element (a), or any related person, received during the plan year indirect compensation in connection with the person's position with the plan or services provided to the plan. (See instructions above on definition of indirect compensation). If the answer is ''No,'' skip elements (f) through (h) for the person identified in element (a).

Element (f). Check ''Yes'' if any of the indirect compensation was eligible indirect compensation for which the plan received the necessary disclosures. See instructions for Line 1 for definition of eligible indirect compensation. Check ''No'' if none of the indirect compensation was eligible indirect compensation.

Element (g). Enter the total of all indirect compensation that is not eligible indirect compensation for which the plan received the necessary disclosures. Do not leave blank. If none, enter ''0''.

Element (h). Check ''Yes'' if the service provider, instead of an amount or an estimated amount, gave the plan a formula or other description of the method used to determine some or all of the indirect compensation received.

Line 3. For each person identified in Line 2 who is a fiduciary to the plan or provides one or more of the following services to the plan '' contract administrator, consulting, investment advisory (plan or participants), investment management, securities brokerage, or recordkeeping '' enter the requested information for each source from whom the person received indirect compensation if (1) the amount of the compensation was $1,000 or more, or (2) the plan was given a formula or other description of the method used to determine the indirect compensation rather than an amount or estimated amount of the indirect compensation.

Part II—Service Providers Who Fail or Refuse To Provide Information

Line 4. Provide the requested information for each plan fiduciary or service provider who you believe failed or refused to provide any of the information necessary to complete Part I of this Schedule.

Important Reminder. Before identifying a fiduciary or service provider as a person who failed or refused to provide information, you should contact the fiduciary or service provider to request the necessary information and tell them that you will list them on the Schedule C as a fiduciary or service provider who failed or refused to provide information if they do not provide the necessary information.

Part III—Termination Information on Accountants and Enrolled Actuaries

Complete Part III if there was a termination in the appointment of an accountant or enrolled actuary during the 2009 plan year. This information must be provided on the Form 5500 Return/Report for the plan year during which the termination occurred. For example, if an accountant was terminated in the 2009 plan year after completing work on an audit for the 2007 plan year, the termination should be reported on the Schedule C filed with the 2009 plan year Form 5500. If the accountant is a firm (such as a corporation, partnership, etc.), report when the service provider (not an individual within the firm) was terminated. An enrolled actuary is by definition an individual and not a firm, and you must report when the individual is terminated.

Provide an explanation of the reasons for the termination of an accountant or enrolled actuary. Include a description of any material disputes or matters of disagreement concerning the termination, even if resolved prior to the termination. If an individual is listed, and the individual does not have an EIN, the EIN to be entered should be the EIN of the individual's employer. Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule C or any of its attachments may result in the rejection of the filing.

The plan administrator must also provide the terminated accountant or enrolled actuary with a copy of the explanation for the termination provided in Part III of the Schedule C,

along with a completed copy of the notice below.

Notice to Terminated Accountant Or Enrolled Actuary

I, as plan administrator, verify that the explanation that is reproduced below or attached to this notice is the explanation concerning your termination reported on the Schedule C (Form 5500) attached to the 2009 Form 5500, Annual Return/Report of Employee Benefit Plan for the _____(enter name of plan). This Form 5500 is identified in line 2b by the nine-digit EIN__–____(enter sponsor's EIN), and in line 1b by the three-digit PN____(enter plan number).

You have the opportunity to comment to the Department of Labor concerning any aspect of this explanation.

Comments should include the name, EIN, and PN of the plan and be submitted to: Office of Enforcement, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Signed

Dated

2009 Instructions for Schedule D (Form 5500) DFE/Participating Plan Information

General Instructions

Purpose of Schedule

When the Form 5500 Return/Report is filed for a plan or Direct Filing Entity (DFE) that invested or participated in any master trust investment accounts (MTIAs), 103–12 Investment Entities (103–12 IEs), common/collective trusts (CCTs) and/or pooled separate accounts (PSAs), Part I provides information about these entities. When the Form 5500 Return/Report is filed for a DFE, Part II provides information about plans participating in the DFE.

Who Must File

Employee Benefit Plans: Schedule D (Form 5500), DFE/Participating Plan Information (Schedule D), must be attached to a Form 5500 filed for an employee benefit plan that participated or invested in one or more CCTs, PSAs, MTIAs, or 103–12 IEs at anytime during the plan year.

Direct Filing Entities: Schedule D must be attached to a Form 5500 filed for a CCT, PSA, MTIA, 103–12 IE or Group Insurance Arrangement (GIA), as a Direct Filing Entity (*i.e.*, when ''a DFE'' is checked on Part I, Line A of the Form 5500). For more information, see instructions for Direct Filing Entity (DFE) Filing Requirements.

Check the Schedule D box on the Form 5500 (Part II, line 10b(5)) if a Schedule D is attached to the Form 5500. As many repeating entries must be completed as necessary to report the required information.

Specific Instructions

Lines A, B, C, and D. The information must be the same as reported in Part II of the Form 5500 to which this Schedule D is attached. The plan name may be abbreviated.

Do not use a social security number in line D in lieu of an EIN. The Schedule D and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule D or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Part I—Information on Interests in MTIAs, CCTs, PSAs, and 103–12 IEs (To Be Completed by Plans and DFEs)

Complete as many repeating entries as necessary to enter the information specified below for all MTIAs, CCTs, PSAs, and 103–12 IEs in which the plan or DFE filing the Form 5500 Return/Report participated at any time during the plan or DFE year.

Complete a separate item (elements (a) through (e)) for each MTIA, CCT, PSA, or 103–12 IE.

Element (a). Enter the name of the MTIA, CCT, PSA, or 103–12 IE in which the plan or DFE filing the Form 5500 Return/Report participated at any time during the plan or DFE year.

Element (b). Enter the name of the sponsor of the MTIA, CCT, PSA, or 103–12 IE named in (a).

Element (c). Enter the nine-digit employer identification number (EIN) and three-digit plan/entity number (PN) for each MTIA, CCT, PSA, or 103–12 IE named in (a). This must be the same DFE EIN/PN as reported on lines 2b and 1b of the Form 5500 filed for the DFE. If a Form 5500 was not filed for a CCT or PSA named in element (a), enter the EIN for the CCT or PSA and enter 000 for the PN. Do not use a social security number in lieu of an EIN. The Schedule D and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet.

Because of privacy concerns, the inclusion of a social security number on this Schedule D or any of its attachments may result in the rejection of the filing.

Element (d). Enter an M, C, P, or E, as appropriate, (see table below) to identify the type of entity (MTIA, CCT, PSA, or 103–12 IE).

Type of entity	Enter in (d)
MTIA	M
CCT	C
PSA	P
103–12 IE	E

Element (e). Enter the dollar value of the plan's or DFE's interest as of the end of the year. If the plan or DFE for which this Schedule D is filed had no interest in the MTIA, CCT, PSA, or 103–12 IE listed at the end of the year, enter ''0'.

Example for Part I: If a plan participates in an MTIA, the MTIA is named in element (a); the MTIA's sponsor is named in element (b); the MTIA's EIN and PN is entered in element (c) (such as: 12–3456789–001); an ''M'' is entered in element (d); and the dollar value of the plan's interest in the MTIA as of the end of the plan year is entered in element (e).

If the plan also participates in a CCT for which a Form 5500 was not filed, the CCT is named in another element (a); the name of the CCT sponsor is entered in element (b); the EIN for the CCT, followed by 000 is entered in element (c) (such as: 99–8765432–000); a ''C'' is entered in element (d); and the dollar value of the plan's interest in the CCT is entered in element (e).

If the plan also participates in a PSA for which a Form 5500 was filed, the PSA is named in a third element (a); the name of the PSA sponsor is entered in element (b); the PSA's EIN and PN are entered in element (c) (such as: 98–7655555–001); a ''P'' is entered in element (d); and the dollar value of the plan's interest in the PSA is entered in element (e).

Part II—Information on Participating Plans (To Be Completed Only by DFEs)

Complete as many repeating entries as necessary to enter the information specified below for all plans that invested or participated in the DFE at any time during the DFE year.

Complete a separate item (elements (a) through (c)) for each plan.

Element (a). Enter the name of each plan that invested or participated in the DFE at any time during the DFE year. GIAs need not complete element (a).

Element (b). Enter the sponsor of each investing or participating plan. This section must be completed by DFEs for all participating plans even if those

plans are filing the Form 5500–SF and not the Form 5500 and Schedule D.

Element (c). Enter the nine-digit EIN and three-digit PN for each plan named in element (a). This is the EIN and PN entered on lines 2b and 1b of the plan's Form 5500 or Form 5500–SF. GIAs should enter the EIN of the sponsor listed in element (b). Do not use a social security number in lieu of an EIN. The Schedule D and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule D or any of its attachments may result in the rejection of the filing.

2009 Instructions for Schedule G (Form 5500) Financial Transaction Schedules

General Instructions

Who Must File

Schedule G (Form 5500), Financial Transaction Schedules (Schedule G), must be attached to a Form 5500 filed for a plan, MTIA, 103–12 IE, or GIA to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year, leases in default or classified as uncollectible, and nonexempt transactions. See Schedule H lines 4b, 4c, and/or 4d.

Check the Schedule G box on the Form 5500 (Part II, line 10b(6)) if a Schedule G is attached to the Form 5500. As many entries must be completed as necessary to report the required information.

The Schedule G consists of three parts. Part I of the Schedule G reports any loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year. Part II of the Schedule G reports any leases in default or classified as uncollectible. Part III of the Schedule G reports nonexempt transactions.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule G is attached. The plan name may be abbreviated.

Do not use a social security number in line D in lieu of an EIN. The Schedule G and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule G or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Part I—Loans or Fixed Income Obligations in Default or Classified as Uncollectible

List all loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year or the fiscal year of the GIA, MTIA, or 103–12 IE. Include:

- Obligations where the required payments have not been made by the due date;
- Fixed income obligations that have matured, but have not been paid, for which it has been determined that payment will not be made; and
- Loans that were in default even if renegotiated later during the year.

Note: Identify in element (a) each obligor known to be a party-in-interest to the plan.

Provide, on a separate attachment, an explanation of what steps have been taken or will be taken to collect overdue amounts for each loan listed and label the attachment ''Schedule G, Part I—Overdue Loan Explanation.''

The due date, payment amount, and conditions for determining default in the case of a note or loan are usually contained in the documents establishing the note or loan. A loan is in default when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate.

Do not report in Part I participant loans under an individual account plan with investment experience segregated for each account, that are made in accordance with 29 CFR 2550.408b–1, and that are secured solely by a portion of the participant's vested accrued benefit. Report all other participant loans in default or classified as uncollectible on Part I, and list each such loan individually.

Part II—Leases in Default or Classified as Uncollectible

List any leases in default or classified as uncollectible. A lease is an agreement conveying the right to use property, plant, or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made. Provide, on a separate attachment, an explanation of what steps have been taken or will be taken to collect overdue amounts for each lease listed and label the attachment ''Schedule G, Part II—Overdue Lease Explanation.''

Part III—Nonexempt Transactions

All nonexempt party-in-interest transactions must be reported, regardless of whether disclosed in the accountant's report, unless the nonexempt transaction is:

1. Statutorily exempt under Part 4 of Title I of ERISA;
2. Administratively exempt under ERISA section 408(a);
3. Exempt under Code sections 4975(c) or 4975(d);
4. The holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01;
5. A transaction of a 103–12 IE with parties other than the plan; or
6. A delinquent participant contribution reported on Schedule H, line 4a.

Nonexempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account.

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

For purposes of this form, party-in-interest is deemed to include a disqualified person. See Code section 4975(e)(2). The term ''party-in-interest'' means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of: (1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, (2) the capital interest or the profits interest of a partnership, or (3) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of:

(1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in A, B, C, D, or E;

H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

CAUTION: An unfunded, fully insured, or combination unfunded/insured welfare plan with 100 or more participants exempt under 29 CFR 2520.104–44 from completing Schedule H must still complete Schedule G, Part III, to report nonexempt transactions.

If you are unsure whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant (IQPA) or legal counsel or both.

You may indicate that an application for an administrative exemption is pending.

If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, an IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, is required to be filed with the IRS to pay the excise tax on the transaction.

TIP: The DOL Voluntary Fiduciary Correction Program (VFCP) describes how to apply, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of Prohibited Transaction Exemption (PTE) 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the Form 5330 with the IRS. For more information, see 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). If the conditions of PTE 2002–51 are satisfied, corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering Schedule G, Part III. Information about the VFCP is also available on the Internet at *http://www.dol.gov/ebsa.*

2009 Instructions for Schedule H (Form 5500) Financial Information

General Instructions

Who Must File

Schedule H (Form 5500) must be attached to a Form 5500 filed for a pension benefit plan or a welfare benefit plan that covered 100 or more participants as of the beginning of the plan year and a Form 5500 filed for an MTIA, CCT, PSA, 103–12 IE, or GIA. See the instructions to the Form 5500 for Direct Filing Entity (DFE) Filing Requirements.

Exceptions:

(1) Insured, unfunded, or a combination of unfunded/insured welfare plans and fully insured pension benefit plans that meet the requirements of 29 CFR 2520.104–44 are exempt from completing the Schedule H.

(2) If a Schedule I was filed for the plan for the 2008 plan year and the plan covered fewer than 121 participants as of the beginning of the 2009 plan year, the Schedule I may be completed instead of a Schedule H. *See* What To File. If eligible, such a plan may file the Form 5500–SF instead of the Form 5500 and its schedules, including the Schedule I. *See* Instructions for Form 5500–SF.

(3) Plans that file a Form 5500–SF for the 2009 plan year are not required to file a Schedule H for that year.

Check the Schedule H box on the Form 5500 (Part II, line 10b(1)) if a Schedule H is attached to the Form 5500. Do not attach both a Schedule H and a Schedule I to the same Form 5500.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule H is attached. The plan name may be abbreviated.

Do not use a social security number in line D in lieu of an EIN. The Schedule H and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule H or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Note: The cash, modified cash, or accrual basis may be used for recognition of transactions in Parts I and II, as long as you use one method consistently. Round off all amounts reported on the Schedule H to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

If the assets of two or more plans are maintained in a fund or account that is not a DFE, a registered investment company, or the general account of an insurance company under an unallocated contract (see the instructions for lines 1c(9) through 1c(14)), complete Parts I and II of the Schedule H by entering the plan's allocable part of each line item.

Exception: When completing Part II of the Schedule H for a plan or DFE that participates in a CCT or PSA for which a Form 5500 has not been filed, do not allocate the income of the CCT or PSA and expenses that were subtracted from the gross income of the CCT or PSA in determining their net investment gain (loss). Instead, enter the CCT or PSA net gain (loss) on line 2b(6) or (7) in accordance with the instructions for these lines.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in Parts I and II.

Current value means fair market value where available. Otherwise, it means the

fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination. See ERISA section 3(26).

Note: For the 2009 plan year, plans that provide participant-directed brokerage accounts as an investment alternative (and have entered pension feature code ''2R'' on line 8a of the Form 5500) may report investments in assets made through participant-directed brokerage accounts either:

1. As individual investments on the applicable asset and liability categories in Part I and the income and expense categories in Part II, or

2. By including on line 1c(15) the total aggregate value of the assets and on line 2c the total aggregate investment income (loss) before expenses, provided the assets are not loans, partnership or joint-venture interests, real property, employer securities, or investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction. Expenses charged to the accounts must be reported on the applicable expense line items. Participant-directed brokerage account assets reported in the aggregate on line 1c(15) should be treated as one asset held for investment for purposes of the line 4i schedules, except that investments in tangible personal property must continue to be reported as separate assets on the line 4i schedules.

In the event that investments made through a participant-directed brokerage account are loans, partnership or joint venture interests, real property, employer securities, or investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction, such assets must be broken out and treated as separate assets on the applicable asset and liability categories in Part I, income and expense categories in Part II, and on the line 4i schedules. The remaining assets in the participant-directed brokerage account may be reported in the aggregate as set forth in paragraph 2 above.

Columns (a) and (b). Enter the current value on each line as of the beginning and end of the plan year.

Note: Amounts reported in column (a) must be the same as reported for the end of the plan year for corresponding line items of the return/report for the preceding plan year. Do not include contributions designated for the 2009 plan year in column (a).

Line 1a. Total noninterest bearing cash includes, among other things, cash on hand or cash in a noninterest bearing checking account.

Line 1b(1). Noncash basis filers must include contributions due the plan by the employer but not yet paid. Do not include other amounts due from the employer such as the reimbursement of an expense or the repayment of a loan.

Line 1b(2). Noncash basis filers must include contributions withheld by the employer from participants and amounts due directly from participants that have not yet been received by the plan. Do not include the repayment of participant loans.

Line 1b(3). Noncash basis filers must include amounts due to the plan that are not includable in lines 1b(1) or 1b(2). These amounts may include investment income earned but not yet received by the plan and other amounts due to the plan such as amounts due from the employer or another plan for expense reimbursement or from a participant for the repayment of an overpayment of benefits.

Line 1c(1). Include all assets that earn interest in a financial institution account such as interest bearing checking accounts, passbook savings accounts, or money market accounts.

Line 1c(2). Include securities issued or guaranteed by the U.S. Government or its designated agencies, such as U.S. Savings Bonds, Treasury bonds, Treasury bills, FNMA, and GNMA.

Line 1c(3). Include investment securities (other than employer securities defined below in 1d(1)) issued by a corporate entity at a stated interest rate repayable on a particular future date such as most bonds, debentures, convertible debentures, commercial paper and zero coupon bonds. Do not include debt securities of governmental units that should be reported on line 1c(2) or 1c(15).

''Preferred'' means any of the above securities that are publicly traded on a recognized securities exchange and the securities have a rating of ''A'' or above. If the securities are not ''Preferred,'' list them as ''Other.''

Line 1c(4)(A). Include stock issued by corporations (other than employer securities defined in 1d(1) below) which is accompanied by preferential rights such as the right to share in distributions of earnings at a higher rate or which has general priority over the common stock of the same entity. Include the value of warrants convertible into preferred stock.

Line 1c(4)(B). Include any stock (other than employer securities defined in 1d(1)) that represents regular ownership of the corporation and is not accompanied by preferential rights. Include the value of warrants convertible into common stock.

Line 1c(5). Include the value of the plan's participation in a partnership or joint venture if the underlying assets of the partnership or joint venture are not considered to be plan assets under 29 CFR 2510.3–101. Do not include the value of a plan's interest in a partnership or joint venture that is a 103–12 Investment Entity (103–12 IE). Include the value of a 103–12 IE in line 1c(12).

Line 1c(6). Include the current value of both income and non-income producing real property owned by the plan. Do not include the value of property that is employer real property or property used in plan operations that must be reported on lines 1d and 1e, respectively.

Line 1c(7). Enter the current value of all loans made by the plan, except participant loans reportable on line 1c(8). Include the sum of the value of loans for construction, securities loans, commercial and/or residential mortgage loans that are not subject to Code section 72(p) (either by making or participating in the loans directly or by purchasing loans originated by a third party), and other miscellaneous loans.

Line 1c(8). Enter the current value of all loans to participants including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account that are made in accordance with 29 CFR 2550.408b-1 and secured solely by a portion of the participant's vested accrued benefit.

When applicable, combine this amount with the current value of any other participant loans. Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1, if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If both of these circumstances apply, report the loan as a deemed distribution on line 2g. However, if either of these circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included in column (b) without regard to the occurrence of a deemed distribution.

Note: After a participant loan that has been deemed distributed is reported on line 2g, it is no longer to be reported as an asset on

Schedule H or Schedule I unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulation section 1.411(a)–7(d)(5). See Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

The entry on line 1c(8), column (b), of Schedule H (participant loans—end of year) or on line 1a, column (b), of Schedule I (plan assets—end of year) must include the current value of any participant loan that was reported as a deemed distribution on line 2g for any earlier year if the participant resumes repayment under the loan during the plan year. In addition, the amount to be entered on line 2g must be reduced by the amount of the participant loan that was reported as a deemed distribution on line 2g for the earlier year.

Lines 1c(9), (10), (11), and (12). Enter the total current value of the plan's or DFE's interest in DFEs on the appropriate lines as of the beginning and end of the plan or DFE year. The value of the plan's or DFE's interest in each DFE at the end of the plan or DFE year must be reported on the Schedule D (Form 5500).

CAUTION: The plan's or DFE's interest in common/collective trusts (CCTs) and pooled separate accounts (PSAs) for which a DFE Form 5500 has not been filed may not be included on lines 1c(9) or 1c(10). The plan's or DFE's interest in the underlying assets of such CCTs and PSAs must be allocated and reported in the appropriate categories on a line-by-line basis on Part I of the Schedule H.

Note: For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3–101(h)(1)(iii) does not constitute a PSA.

Line 1c(14). Use the same method for determining the value of the insurance contracts reported here as you used for line 4 of Schedule A, or, if line 4 is not required, line 7 of Schedule A.

Line 1c(15). Include all other investments not includable in lines 1c(1) through (14), such as options, index futures, repurchase agreements, state and municipal securities, collectibles, and other personal property.

Line 1d(1). An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper.

Line 1d(2). The term ''employer real property'' means real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer. For purposes of determining the time at which a plan acquires employer real property for purposes of this line, such property shall be deemed to be acquired by the plan on the date on which the plan acquires the property or on the date on which the lease to the employer (or affiliate) is entered into, whichever is later.

Line 1e. Include the current (not book) value of the buildings and other property used in the operation of the plan. Buildings or other property held as plan investments should be reported in lines 1c(6) and 1d(2). Do not include the value of future pension payments on lines 1g, h, i, j, or k.

Line 1g. Noncash basis plans must include the total amount of benefit claims that have been processed and approved for payment by the plan. Include welfare plan ''incurred but not reported'' (IBNR) benefit claims on this line.

Line 1h. Noncash basis plans must include the total amount of obligations owed by the plan which were incurred in the normal operations of the plan and have been approved for payment by the plan but have not been paid.

Line 1i. ''Acquisition indebtedness,'' for debt-financed property other than real property, means the outstanding amount of the principal debt incurred:

1. By the organization in acquiring or improving the property;

2. Before the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property; or

3. After the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property and was reasonably foreseeable at the time of such acquisition or improvement. For further explanation, see Code section 514(c).

Line 1j. Noncash basis plans must include amounts owed for any liabilities that would not be classified as benefit claims payable, operating payables, or acquisition indebtedness.

Line 1l. The entry in column (b) must equal the sum of the entry in column (a) plus lines 2k, 2l(1), and 2l(2).

Line 2a. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Note: Plans using the accrual basis of accounting should not include contributions designated for years before the 2009 plan year on line 2a.

Line 2a(1)(B). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension benefit plans, participant contributions, for purposes of this item, also include elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 2a(2). Use the current value, at date contributed, of securities or other noncash property.

Line 2b(1)(A). Enter interest earned on interest-bearing cash, including earnings from sweep accounts, STIF accounts, money market accounts, certificates of deposit, etc. This is the interest earned on the investments reported on line 1c(1).

Line 2b(1)(B). Enter interest earned on U.S. Government Securities. This is the interest earned on the investments reported on line 1c(2).

Line 2b(1)(C). Generally, this is the interest earned on securities that are reported on lines 1(c)(3)(A) and (B) and 1d(1).

Line 2b(2). Generally, the dividends are for investments reported on line 1c(4)(A) and (B), 1(c)(13), and 1d(1). For accrual basis plans, include any dividends declared for stock held on the date of record, but not yet received as of the end of the plan year.

Line 2b(3). Generally, rents represent the income earned on the real property that is reported in items 1c(6) and 1d(2). Enter rents as a ''Net'' figure. Net rents are determined by taking the total rent received and subtracting all expenses directly associated with the property. If the real property is jointly used as income producing property and for the operation of the plan, net that portion of the expenses attributable to the income producing portion of the property against the total rents received.

Line 2b(4). Enter in column (b) the total of net gain (loss) on sale of assets. This equals the sum of the net realized gain (or loss) on each asset held at the beginning of the plan year which was sold or exchanged during the plan year, and on each asset that was both acquired and disposed of within the plan year.

Note: As current value reporting is required for the Form 5500, assets are revalued to current value at the end of the plan year. For purposes of this form, the

increase or decrease in the value of assets since the beginning of the plan year (if held on the first day of the plan year) or their acquisition date (if purchased during the plan year) is reported in line 2b(5) below, with two exceptions: (1) The realized gain (or loss) on each asset that was disposed of during the plan year is reported in 2b(4) (NOT on line 2b(5)), and (2) the net investment gain (or loss) from CCTs, PSAs, MTIAs, 103–12 IEs, and registered investment companies is reported in lines 2b(6) through (10).

The sum of the realized gain (or loss) on assets sold or exchanged during the plan year is to be calculated as follows:

1. Enter in 2b(4)(A), column (a), the sum of the amount received for these former assets;

2. Enter in 2b(4)(B), column (a), the sum of the current value of these former assets as of the beginning of the plan year and the purchase price for assets both acquired and disposed of during the plan year; and

3. Enter in 2b(4)(C), column (b), the result obtained when 2b(4)(B) is subtracted from 2b(4)(A). If entering a negative number, enter a minus sign ''-'' to the left of the number.

Note: Bond write-offs must be reported as realized losses.

Line 2b(5). Subtract the current value of assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of assets at the end of the year to obtain this figure. If entering a negative number, enter a minus sign ''–'' to the left of the number. Do not include the value of assets reportable in lines 2b(4) and 2b(6) through 2b(10).

Lines 2b(6), (7), (8), and (9). Report all earnings, expenses, gains or losses, and unrealized appreciation or depreciation included in computing the net investment gain (or loss) from all CCTs, PSAs, MTIAs, and 103–12 IEs here. If some plan funds are held in any of these entities and other plan funds are held in other funding media, complete all applicable subitems of line 2 to report plan earnings and expenses relating to the other funding media. The net investment gain (or loss) allocated to the plan for the plan year from the plan's investment in these entities is equal to:

1. The sum of the current value of the plan's interest in each entity at the end of the plan year,

2. Minus the current value of the plan's interest in each entity at the beginning of the plan year,

3. Plus any amounts transferred out of each entity by the plan during the plan year, and

4. Minus any amounts transferred into each entity by the plan during the plan year.

Enter the net gain as a positive number or the net loss as a negative number.

Note: Enter the combined net investment gain or loss from all CCTs and PSAs, regardless of whether a DFE Form 5500 was filed for the CCTs and PSAs.

Line 2b(10). Enter net investment gain (loss) from registered investment companies here. Compute in the same manner as discussed above for lines 2b(6) through (9).

Line 2c. Include all other plan income earned that is not included in lines 2a or 2b. Do not include transfers to or from other plans reported in line 2l.

Line 2e(1). Include the current value of all cash, securities, or other property at the date of distribution. Include all eligible rollover distributions as defined in Code section 401(a)(31)(C) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(D)).

Line 2e(2). Include payments to insurance companies and similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, health insurance, vision care, dental coverage, stop-loss insurance whose claims are paid to the plan (or which is otherwise an asset of the plan)), etc.

Line 2e(3). Include all payments made to other organizations or individuals providing benefits. Generally, these are individual providers of welfare benefits such as legal services, day care services, training, and apprenticeship services.

Line 2f. Include on this line all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under section 401(k)(8), and excess aggregate contributions under section 401(m)(6). Include allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or returned to employees during the plan year in accordance with Treasury Regulation section 1.415–6(b)(6)(iv), as well as any attributable gains that were also distributed.

Line 2g. Report on line 2g a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan must not be reported on line 2g. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included on line 1c(8), column (b) (participant loans—end of year), without regard to the occurrence of a deemed distribution.

Note: The amount to be reported on line 2g of Schedule H or Schedule I must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on line 2g for any earlier year. The amount of the required reduction is the amount of the participant loan reported as a deemed distribution on line 2g for the earlier year. If entering a negative number, enter a minus sign ''–'' to the left of the number. The current value of the participant loan must then be included in line 1c(8), column (b), of Schedule H (participant loans—end of year) or in line 1a, column (b), of Schedule I (plan assets—end of year).

Although certain participant loans that are deemed distributed are to be reported on line 2g of the Schedule H or Schedule I, and are not to be reported on the Schedule H or Schedule I as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. See Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

Line 2h. Interest expense is a monetary charge for the use of money borrowed by the plan. This amount should include the total of interest paid or to be paid (for accrual basis plans) during the plan year.

Line 2i. Report all administrative expenses (by specified category) paid by or charged to the plan, including those that were not subtracted from the gross income of CCTs, PSAs, MTIAs, and 103–12 IEs in determining their net investment gain(s) or loss(es). Expenses incurred in the general operations of the plan are classified as administrative expenses.

Line 2i(1). Include the total fees paid (or in the case of accrual basis plans costs incurred during the plan year but not paid as of the end of the plan year) by the plan for outside accounting, actuarial, legal, and valuation/appraisal services. Include fees for the annual audit of the plan by an independent qualified public accountant (IQPA); for payroll audits; for accounting/bookkeeping services; for actuarial services rendered to the plan; and to a

lawyer for rendering legal opinions, litigation, and advice (but not for providing legal services as a benefit to plan participants). Report here fees and expenses for corporate trustees and individual plan trustees, including reimbursement of expenses associated with trustees, such as lost time, seminars, travel, meetings, etc. Include the fee(s) for valuations or appraisals to determine the cost, quality, or value of an item such as real property, personal property (gemstones, coins, etc.), and for valuations of closely held securities for which there is no ready market. Do not include amounts paid to plan employees to perform bookkeeping/accounting functions that should be included in line 2i(4).

Line 2i(2). Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to a contract administrator for performing administrative services for the plan. For purposes of the return/report, a contract administrator is any individual, partnership or corporation, responsible for managing the clerical operations (e.g., handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis. Do not include salaried staff or employees of the plan or banks or insurance carriers.

Line 2i(3). Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to an individual, partnership or corporation (or other person) for advice to the plan relating to its investment portfolio. These may include fees paid to manage the plan's investments, fees for specific advice on a particular investment, and fees for the evaluation of the plan's investment performance.

Line 2i(4). Other expenses are those that cannot be included in lines 2i(1) through 2i(3). These may include plan expenditures such as salaries and other compensation and allowances (e.g., payment of premiums to provide health insurance benefits to plan employees), expenses for office supplies and equipment, cars, telephone, postage, rent, expenses associated with the ownership of a building used in the operation of the plan, and all miscellaneous expenses.

Line 2l. Include in these reconciliation figures the value of all transfers of assets or liabilities into or out of the plan resulting from, among other things, mergers and consolidations. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. A transfer is not a shifting of one plan's assets or liabilities from one investment to another. A transfer is not a distribution of all or part of an individual participant's account balance that is reportable on IRS Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., (see the instructions for line 2e). Transfers out at the end of the year should be reported as occurring during the plan year.

Note: If this Schedule H is filed for a DFE, report the value of all asset transfers to the DFE, including those resulting from contributions to participating plans on line 2l(1), and report the total value of all assets transferred out of the DFE, including assets withdrawn for disbursement as benefit payments by participating plans, on line 2l(2). Contributions and benefit payments are considered to be made to/by the plan (not to/by a DFE).

Line 3. The administrator of an employee benefit plan who files a Schedule H generally must engage an IQPA pursuant to ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b). This requirement also applies to a Form 5500 Return/Report filed for a 103–12 IE and for a GIA (see 29 CFR 2520.103–12 and 29 CFR 2520.103–2). The IQPA's report must be attached to the Form 5500 Return/Report when a Schedule H is attached unless line 3d(1) or 3d(2) on the Schedule H is checked.

29 CFR 2520.103–1(b) requires that any separate financial statements prepared in order for the IQPA to form the opinion and notes to these financial statements must be attached to the Form 5500 Return/Report. Any separate statements must include the information required to be disclosed in Parts I and II of the Schedule H; however, they may be aggregated into categories in a manner other than that used on the Schedule H. The separate statements must consist of reproductions of Parts I and II or statements incorporating by references Parts I and II. See ERISA section 103(a)(3)(A), and the DOL regulations 29 CFR 2520.103–1(a)(2) and (b), 2520.103–2, and 2520.104–50.

Note: Delinquent participant contributions reported on line 4a should be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b) for purposes of preparing the IQPA's opinion described on line 3 even though they are no longer required to be listed on Part III of the Schedule G. If the information contained on line 4a is not presented in accordance with regulatory requirements, i.e., when the IQPA concludes that the scheduled information required by Line 4a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. Delinquent participant contributions that are exempt because they satisfy the DOL voluntary fiduciary correction program (VFCP) requirements and the conditions of prohibited transaction exemption (PTE) 2002–51 do not need to be treated as part of the schedule of nonexempt party-in-interest transactions.

If the required IQPA's report is not attached to the Form 5500 Return/Report, the filing is subject to rejection as incomplete and penalties may be assessed.

Lines 3a(1) through 3a(4). These boxes identify the type of opinion offered by the accountant.

Line 3a(1). Check if an unqualified opinion was issued. Generally, an unqualified opinion is issued when the IQPA concludes that the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the period audited and the changes in its financial status for the period under audit in conformity with generally accepted accounting principles (GAAP) or an other comprehensive basis of accounting (OCBOA), e.g., cash basis.

Line 3a(2). Check if a qualified opinion was issued. Generally, a qualified opinion is issued by an IQPA when the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the audit period and the changes in its financial status for the period under audit in conformity with GAAP or OCBOA, except for the effects of one or more matters described in the opinion.

Line 3a(3). Check if a disclaimer of opinion was issued. A disclaimer of opinion is issued when the IQPA does not express an opinion on the financial statements because he or she has not performed an audit sufficient in scope to enable him or her to form an opinion on the financial statements.

Line 3a(4). Check if the plan received an adverse accountant's opinion. Generally, an adverse opinion is issued by an IQPA when the plan's financial statements do not present fairly, in all material respects, the financial status of the plan as of the end of the audit period and the changes in its financial status for the period under audit in conformity with GAAP or OCBOA.

Line 3b. Check ''Yes'' if a box is checked on line 3a and the scope of the plan's audit was limited pursuant to DOL regulations 29 CFR 2520.103–8 and 2520.103–12(d) because the

examination and report of an IQPA did not extend to: (a) Statements or information regarding assets held by a bank, similar institution or insurance carrier that is regulated and supervised and subject to periodic examination by a state or federal agency provided that the statements or information are prepared by and certified to by the bank or similar institution or an insurance carrier, or (b) information included with the Form 5500 Return/Report filed for a 103–12 IE.

The term ''similar institution'' as used here does not extend to securities brokerage firms (see DOL Advisory Opinion 93–21A). See 29 CFR 2520.103–8 and 2520.103–12(d).

Note: These regulations do not exempt the plan administrator from engaging an IQPA or from attaching the IQPA's report to the Form 5500 Return/Report. If you check line 3b, you must also check the appropriate box on line 3a to identify the type of opinion offered by the IQPA.

Line 3c. Enter the name and EIN of the accountant (or accounting firm) in the space provided on line 3c. Do not use a social security number in lieu of an EIN. The Schedule H is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule H may result in the rejection of the filing.

Line 3d(1). Check this box only if the Schedule H is being filed for a CCT, PSA, or MTIA.

Line 3d(2). Check this box if the plan has elected to defer attaching the IQPA's opinion for the first of two (2) consecutive plan years, one of which is a short plan year of seven (7) months or fewer. The Form 5500 for the first of the two years must be complete and accurate, with all required schedules and attachments, except for the IQPA's report, including an attachment explaining why one of the two plan years is of seven or fewer months duration and stating that the annual report for the immediately following plan year will include a report of an IQPA with respect to the financial statements and accompanying schedules for both of the two plan years. The Form 5500 Return/Report for the second year must include: (a) Financial schedules and statements for both plan years; (b) a report of an IQPA with respect to the financial schedules and statements for each of the two plan years (regardless of the number of participants covered at the beginning of each plan year); and (c) a statement identifying any material differences between the unaudited financial information submitted with the first Form 5500 and the audited financial information submitted with the second Form 5500. *See* 29 CFR 2520.104–50.

Note: Do not check the box on line 3d(2) if the Form 5500 Return/Report is filed for a 103–12 IE or a GIA. A deferral of the IQPA's opinion is not permitted for a 103–12 IE or a GIA. If an E or G is entered on Form 5500, Part I, line A(4), an IQPA's opinion must be attached to the Form 5500 Return/Report, and the type of opinion must be reported on Schedule H, line 3a.

Lines 4a through 4n. Plans completing Schedule H must answer all these lines either ''Yes'' or ''No.'' If lines 4a through 4h are ''Yes'' or line 4l is ''Yes'' an amount must be entered where indicated.

Report investments in CCTs, PSAs, MTIAs, and 103–12 IEs, but not the investments made by these entities. Plans with all of their funds held in a master trust must check ''No'' on lines 4b, 4c, 4i, and 4j. CCTs and PSAs do not complete Part IV. MTIAs, 103–12 IEs, and GIAs do not complete lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, or 4n. 103–12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l.

Line 4a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (*see* 29 CFR 2510.3–102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (*see* ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Plans that check ''Yes'' must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions must be included on line 4a of the Schedule H or I, as applicable, for the year in which the contributions were delinquent and must be carried over and reported again on line 4a of the Schedule H or I, as applicable, for each subsequent year until the year after the violation has been fully corrected, which correction includes payment of the late contributions and reimbursement of the plan for lost earnings or profits. If no participant contributions were received or withheld by the employer during the plan year, answer ''No.''

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or on line 4d. *See* Advisory Opinion 2002–02A, available at *http://www.dol.gov/ebsa*.

TIP: Delinquent participant contributions reported on line 4a must be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b) for purposes of preparing the IQPA's opinion described on line 3 even though they are no longer required to be listed on Part III of the Schedule G. If the information contained on line 4a is not presented in accordance with regulatory requirements, i.e., when the IQPA concludes that the scheduled information required by line 4a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. For more information, *see* EBSA's Frequently Asked Questions About Reporting Delinquent Contributions on the Form 5500, available on the Internet at *http://www.dol.gov/ebsa.* These Frequently Asked Questions clarify that plans have an obligation to include delinquent participant contributions on their financial statements and supplemental schedules and that the IQPA's report covers such delinquent contributions even though they are no longer required to be included on Part III of the Schedule G. Although all delinquent participant contributions must be reported on line 4a, delinquent contributions for which the DOL VFCP requirements and the conditions of PTE 2002–51 have been satisfied do not need to be treated as nonexempt party-in-interest transactions.

The VFCP describes how to apply the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of PTE 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also

relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, *see* 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006).

All delinquent participant contributions must be reported on line 4a even if violations have been corrected. Information about the VFCP is also available on the Internet at *http://www.dol.gov/ebsa.*

Line 4a Schedule. Attach a Schedule of Delinquent Participant Contributions using the format below if you entered ''Yes.'' If you choose to include participant loan repayments on line 4a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as applied to delinquent transmittals of participant contributions.

SCHEDULE H LINE 4A.—SCHEDULE OF DELINQUENT PARTICIPATION CONTRIBUTIONS

Participant Contributions Transferred Late to Plan	Total that Constitute Nonexempt Prohibited Transactions			Total Fully Corrected Under VFCP and PTE 2002–51
	Contributions Not Corrected	Contributions Corrected Outside VFCP	Contributions Pending Correction in VFCP	
Check here if Late Participant Loan Repayments are included: ☐				

Line 4b. Plans that check ''Yes'' must enter the amount and complete Part I of Schedule G. The due date, payment amount and conditions for determining default of a note or loan are usually contained in the documents establishing the note or loan. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally, loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate. Do not include participant loans made under an individual account plan with investment experience segregated for each account that were made in accordance with 29 CFR 2550.408b–1 and secured solely by a portion of the participant's vested accrued benefit.

Line 4c. Plans that check ''Yes'' must enter the amount and complete Part II of Schedule G. A lease is an agreement conveying the right to use property, plant, or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

Line 4d. Plans that check ''Yes'' must enter the amount and complete Part III of Schedule G. Check ''Yes'' if any nonexempt transaction with a party-in-interest occurred regardless of whether the transaction is disclosed in the IQPA's report. Do not check ''Yes'' or complete Schedule G, Part III, with respect to transactions that are: (1) Statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); (4) the holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01; (5) a transaction of a 103–12 IE with parties other than the plan; or (6) delinquent participant contributions reported on line 4a.

Note: See the instructions for Part III of the Schedule G concerning non-exempt transactions and parties-in-interest.

You may indicate that an application for an administrative exemption is pending. If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's IQPA or legal counsel or both.

TIP: Applicants that satisfy the VFCP requirements and the conditions of PTE 2002–51 (see the instructions for line 4a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, *see* 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). When the conditions of PTE 2002–51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering line 4d.

Line 4e. Plans that check ''Yes'' must enter the aggregate amount of fidelity bond coverage for all claims. Check ''Yes'' only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond from an approved surety covering plan officials and that protects the plan as described in 29 CFR Part 2580. Generally, every plan official of an employee benefit plan who ''handles'' funds or other property of such plan must be bonded. Generally, a person shall be deemed to be ''handling'' funds or other property of a plan, so as to require bonding, whenever his or her other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR Part 2580 describe the bonding requirements, including the definition of ''handling'' (29 CFR 2580.412–6), the permissible forms of bonds (29 CFR 2580.412–10), the amount of the bond (29 CFR Part 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412–23). Information concerning the list of approved sureties and reinsurers is available on the Internet at *http://www.fms.treas.gov/c570.*

NOTE: Plans are permitted under certain conditions to purchase fiduciary liability insurance with plan assets. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and are not fidelity bonds reported in line 4e.

Line 4f. Check ''Yes'' if the plan suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If ''Yes'' is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

CAUTION: Willful failure to report is a criminal offense. See ERISA section 501.

Lines 4g and 4h. Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination. See ERISA section 3(26).

An accurate assessment of fair market value is essential to a pension plan's ability to comply with the requirements set forth in the Code (e.g., the exclusive benefit rule of Code section 401(a)(2), the limitations on benefits and contributions under Code section 415, and the minimum funding requirements under Code section 412) and must be determined annually.

Examples of assets that may not have a readily determinable value on an established market (e.g., NYSE, AMEX, over the counter, etc.) include real estate, nonpublicly traded securities, shares in a limited partnership, and collectibles. Do not check ''Yes'' on line 4g for mutual fund shares or insurance company investment contracts. Also do not check ''Yes'' on line 4g if the plan is a defined contribution plan and the only assets the plan holds that do not have a readily determinable value on an established market are: (1) Participant loans not in default or (2) assets over which the participant exercises control within the meaning of section 404(c) of ERISA.

Although the current value of plan assets must be determined each year, there is no requirement that the assets (other than certain nonpublicly traded employer securities held in ESOPs) be valued every year by independent third-party appraisers.

Enter in the amount column the fair market value of the assets referred to on line 4g whose value was not readily determinable on an established market and which were not valued by an independent third-party appraiser in the plan year. Generally, as it relates to these questions, an appraisal by an independent third party is an evaluation of the value of an asset prepared by an individual or firm who knows how to judge the value of such assets and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisals.

Line 4i. Check ''Yes'' if the plan had any assets held for investment purposes, and attach a schedule of assets held for investment purposes at end of year, a schedule of assets held for investment purposes that were both acquired and disposed of within the plan year, or both, as applicable. The schedules must use the format set forth below or a similar format. See 29 CFR 2520.103–11.

Assets held for investment purposes shall include:

- Any investment asset held by the plan on the last day of the plan year; and
- Any investment asset purchased during the plan year and sold before the end of the plan year except:

1. Debt obligations of the U.S. or any U.S. agency.

2. Interests issued by a company registered under the Investment Company Act of 1940 (e.g., a mutual fund).

3. Bank certificates of deposit with a maturity of one year or less.

4. Commercial paper with a maturity of 9 months or less if it is valued in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934.

5. Participations in a bank common or collective trust.

6. Participations in an insurance company pooled separate account.

7. Securities purchased from a broker-dealer registered under the Securities Exchange Act of 1934 and either: (1) Listed on a national securities exchange and registered under section 6 of the Securities Exchange Act of 1934 or (2) quoted on NASDAQ.

Assets held for investment purposes shall not include any investment that was not held by the plan on the last day of the plan year if that investment is reported in the annual report for that plan year in any of the following:

1. The schedule of loans or fixed income obligations in default required by Schedule G, Part I;

2. The schedule of leases in default or classified as uncollectible required by Schedule G, Part II;

3. The schedule of non-exempt transactions required by Schedule G, Part III; or

4. The schedule of reportable transactions required by Schedule H, line 4j.

Line 4i schedules. The first schedule required to be attached is a schedule of all assets held for investment purposes at the end of the plan year, aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost and current value, and, in the case of a loan, the payment schedule.

In column (a), place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. In column (c), include any restriction on transferability of corporate securities. (Include lending of securities permitted under Prohibited Transactions Exemption 81–6.)

This schedule must be clearly labeled ''Schedule H, line 4i—Schedule of Assets (Held At End of Year).''

(a)	(b) Identity of issue, borrower, lessor, or similar party	(c) Description of investment including maturity date, rate of interest, collateral, par, or maturity value	(d) Cost	(e) Current value

The second schedule required to be attached is a schedule of investment assets that were both acquired and disposed of within the plan year. This schedule must be clearly labeled ''Schedule H, line 4i—Schedule of Assets (Acquired and Disposed of Within Year).''

(a) Identity of issue, borrower, lessor, or similar party	(b) Description of investment including maturity date, rate of interest, collateral, par, or maturity value	(c) Costs of acquisitions	(d) Proceeds of dispositions

(a) Identity of issue, borrower, lessor, or similar party	(b) Description of investment including maturity date, rate of interest, collateral, par, or maturity value	(c) Costs of acquisitions	(d) Proceeds of dispositions

Notes: (1) Participant loans under an individual account plan with investment experience segregated for each account, that are made in accordance with 29 CFR 2550.408b–1 and that are secured solely by a portion of the participant's vested accrued benefit, may be aggregated for reporting purposes in item 4i. Under identity of borrower enter ''Participant loans,'' under rate of interest enter the lowest rate and the highest rate charged during the plan year (e.g., 8%–10%), under the cost and proceeds columns enter zero, and under current value enter the total amount of these loans. (2) Column (d) cost information for the Schedule of Assets (Held At End of Year) and the column (c) cost of acquisitions information for the Schedule of Assets (Acquired and Disposed of Within Year) may be omitted when reporting investments of an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her account (including a negative election authorized under the terms of the plan). Likewise, investments in Code section 403(b)(1) annuity contracts and Code section 403(b)(7) custodial accounts may also be omitted. (3) Participant-directed brokerage account assets reporting in the aggregate on line 1c(15) must be treated as one asset held for investment for purposes of the line 4i schedules, except investments in tangible personal property must continue to be reported as separate assets on the line 4i schedules. Investments in Code section 403(b) annuity contracts and Code section 403(b)(7) custodial accounts should also be treated as one asset held for investment for purposes on the line 4i schedules.

Line 4j. Check ''Yes'' and attach to the Form 5500 the following schedule if the plan had any reportable transactions (see 29 CFR 2520.103–6 and the examples provided in the regulation). The schedule must use the format set forth below or a similar format. *See* 29 CFR 2520.103–11.

A reportable transaction includes:

1. A single transaction within the plan year in excess of 5% of the current value of the plan assets;

2. Any series of transactions with or in conjunction with the same person, involving property other than securities, which amount in the aggregate within the plan year (regardless of the category of asset and the gain or loss on any transaction) to more than 5% of the current value of plan assets;

3. Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities amount in the aggregate to more than 5% of the current value of the plan assets; and

4. Any transaction within the plan year with respect to securities with, or in conjunction with, a person if any prior or subsequent single transaction within the plan year with such person, with respect to securities, exceeds 5% of the current value of plan assets.

The 5% figure is determined by comparing the current value of the transaction at the transaction date with the current value of the plan assets at the beginning of the plan year. If this is the initial plan year, you may use the current value of plan assets at the end of the plan year to determine the 5% figure.

If the assets of two or more plans are maintained in one trust, except as provided below, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable (5%) transactions.

For investments in common/collective trusts (CCTs), pooled separate accounts (PSAs), 103–12 IEs and registered investment companies, determine the 5% figure by comparing the transaction date value of the acquisition and/or disposition of units of participation or shares in the entity with the current value of the plan assets at the beginning of the plan year. If the Schedule H is attached to a Form 5500 filed for a plan with all plan funds held in a master trust, check ''No'' on line 4j. Plans with assets in a master trust that have other transactions should determine the 5% figure by subtracting the current value of plan assets held in the master trust from the current value of all plan assets at the beginning of the plan year and check ''Yes'' or ''No,'' as appropriate. Do not include individual transactions of CCTs, PSAs, master trust investment accounts (MTIAs), 103–12 IEs, and registered investment companies in which this plan or DFE invests.

In the case of a purchase or sale of a security on the market, do not identify the person from whom purchased or to whom sold.

Special rule for certain participant-directed transactions. Transactions under an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her account (including a negative election authorized under the terms of the plan) should not be treated for purposes of line 4j as reportable transactions. The current value of all assets of the plan, including these participant-directed transactions, should be included in determining the 5% figure for all other transactions.

Line 4j schedule. The schedule required to be attached is a schedule of reportable transactions that must be clearly labeled ''Schedule H, line 4j—Schedule of Reportable Transactions.''

(a) Identity of party involved	(b) Description of asset (include interest rate and maturity in case of a loan)	(c) Purchase price	(d) Selling price	(e) Lease rental	(f) Expense incurred with transaction	(g) Cost of asset	(h) Current value of asset on transaction date	(i) Net gain or (loss)

Line 4k. Check ''Yes'' if all the plan assets (including insurance/annuity contracts) were distributed to the participants and beneficiaries, legally transferred to the control of another

plan, or brought under the control of the PBGC.

Check ''No'' for a welfare benefit plan that is still liable to pay benefits for claims incurred before the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Line 4l. You must check ''Yes'' if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 4m. Check ''Yes'' if there was a ''blackout period.'' A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A ''blackout period'' generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) Part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, *see* 29 CFR 2520.101–3 (available at *http://www.dol.gov/ebsa*).

Line 4n. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? If so, check ''Yes.'' *See* 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Also, answer ''Yes'' if one of the exceptions to the notice requirement under 29 CFR 2520.101–3 applies.

Line 5a. Check ''Yes'' if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If ''Yes'' is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter ''-0-'' if no reversion occurred during the current plan year.

CAUTION: A Form 5500 must be filed for each year the plan has assets, and, for a welfare benefit plan, if the plan is still liable to pay benefits for claims incurred before the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Line 5b. Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spinoffs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, EIN, and PN of the transferee plan(s) involved on lines 5b(1), (2), and (3). If you need additional space, include an attachment with the information required for lines 5b(1), (2), and (3) for each additional plan and label the attachment ''Schedule H, line 5b—Additional Plans.''

Do not use a social security number in lieu of an EIN or include an attachment that contains visible social security numbers. The Schedule H is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule H or the inclusion of a visible social security number on an attachment may result in the rejection of the filing.

Note: A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R should not be included on line 5b. Do not submit Form 1099–R with the Form 5500.

CAUTION: IRS Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. *See* PBGC Form 10, Post-Event Notice of Reportable Events, and Form 10-Advance, Advance Notice of Reportable Events.

2009 Instructions for Schedule I (Form 5500) Financial Information—Small Plan

General Instructions

Who Must File

Schedule I (Form 5500), Financial Information—Small Plan, must be attached to a Form 5500 filed for pension benefit plans and welfare benefit plans that covered fewer than 100 participants as of the beginning of the plan year and that are not eligible to file Form 5500–SF.

Note: If a Schedule I was filed for the plan for the 2008 plan year and the plan covered fewer than 121 participants as of the beginning of the 2009 plan year, the Schedule I may be completed instead of a Schedule H.

Exception: Certain insured, unfunded or combination unfunded/insured welfare plans are exempt from filing the Form 5500 and the Schedule I. In addition, certain fully insured pension benefit plans are exempt from completing the Schedule I. See the Form 5500 instructions for Who Must File and Limited Pension Plan Reporting for more information.

Check the Schedule I box on the Form 5500 (Part II, line 10b(2)) if a Schedule I is attached to the Form 5500. Do not attach both a Schedule I and a Schedule H to the same Form 5500.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule I is attached. The plan name may be abbreviated.

Do not use a social security number in line D in lieu of an EIN. The Schedule I and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule I or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *www.irs.gov*. The EBSA does not issue EINs.

Note: Use the cash, modified cash, or accrual basis for recognition of transactions, as long as you use one method consistently. Round off all amounts reported on the Schedule I to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

If the assets of two or more plans are maintained in one fund, such as when

an employer has two plans funded through a single trust (except a DFE), complete Parts I and II by entering the plan's allocable part of each line item.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in Part I.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at time of the determination. See ERISA section 3(26).

Part I—Small Plan Financial Information

Amounts reported on lines 1a, 1b, and 1c for the beginning of the plan year must be the same as reported for the end of the plan year for corresponding lines on the return/report for the preceding plan year.

Do not include contributions designated for the 2009 plan year in column (a).

Line 1a. A plan with assets held in common/collective trusts (CCTs), pooled separate accounts (PSAs), master trust investment accounts (MTIAs), and/or 103–12 IEs must also attach Schedule D.

Use the same method for determining the value of the plan's interest in an insurance company general account (unallocated contracts) that you used for line 4 of Schedule A, or, if line 4 is not required, line 7 of Schedule A.

Note: Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1, if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If the deemed distributed participant loan is included in column (a) and both of these circumstances apply, report the loan as a deemed distribution on line 2g. However, if either of these circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included in column (b) without regard to the occurrence of a deemed distribution.

After a participant loan that has been deemed distributed is reported on line 2g, it is no longer to be reported as an asset on Schedule H or Schedule I unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulation section 1.411(a)–7(d)(5). See Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

The entry on line 1a, column (b), of Schedule I (plan assets—end of year) or on line 1c(8), column (b), of Schedule H (participant loans—end of year) must include the current value of any participant loan reported as a deemed distribution on line 2g for any earlier year if, during the plan year, the participant resumes repayment under the loan. In addition, the amount to be entered on line 2g must be reduced by the amount of the participant loan reported as a deemed distribution on line 2g for the earlier year.

Line 1b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to plan participants. However, the amount to be entered in line 1b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid (including all incurred but not reported welfare benefit claims);

2. Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid; and

3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 1c. Enter the net assets as of the beginning and end of the plan year. (Subtract line 1b from 1a). Line 1c, column (b) must equal the sum of line 1c, column (a) plus lines 2j and 2k.

Line 2a. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Line 2a(1). Plans using the accrual basis of accounting must not include contributions designated for years before the 2009 plan year on line 2a(1).

Line 2a(2). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension benefit plans, participant contributions, for purposes of this item, also include elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 2b. Use the current value, at date contributed, of securities or other noncash property.

Line 2c. Enter all other plan income for the plan year. Do not include transfers from other plans that are reported on line 2k. Other income received and/or receivable would include:

1. Interest on investments (including money market accounts, sweep accounts, STIF accounts, etc.)

2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)

3. Rents from income-producing property owned by the plan.

4. Royalties.

5. Net gain or loss from the sale of assets.

6. Other income, such as unrealized appreciation (depreciation) in plan assets. To compute this amount subtract the current value of all assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of all assets at the end of the year minus assets disposed of during the plan year.

Line 2d. Enter the total of all cash contributions (line 2a(1) through (3)), noncash contributions (line 2b), and other plan income (line 2c) during the plan year. If entering a negative number, enter a minus sign ''–'' to the left of the number.

Line 2e. Include: (1) Payments made (and for accrual basis filers payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance). Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(E)); (2) payments to insurance companies and similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, health insurance, vision care, dental coverage, etc.); and (3) payments made to other organizations or individuals providing benefits.

Generally, these payments discussed in (3) are made to individual providers of welfare benefits such as legal services, day care services, and training and apprenticeship services. If securities or other property are

distributed to plan participants or beneficiaries, include the current value on the date of distribution.

Line 2f. Include all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under section 401(k)(8), and excess aggregate contributions under section 401(m)(6), allocable income distributed, and any elective deferrals and employee contributions distributed or returned to employees during the plan year in accordance with Treasury Regulation section 1.415–6(b)(6)(iv), as well as any attributable gains that were also distributed.

Line 2g. Report on line 2g a participant loan included in line 1a, column (a) (participant loans—beginning of year) and that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan should not be reported on line 2g. Instead, the current value of the participant loan including interest accruing thereon after the deemed distribution) should be included on line 1a, column (b) (plan assets—end of year), without regard to the occurrence of a deemed distribution.

Note: The amount to be reported on line 2g of Schedule H or Schedule I must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on line 2g for any earlier year. The amount of the required reduction is the amount of the participant loan that was reported as a deemed distribution on line 2g for the earlier year. If entering a negative number, enter a minus sign ''−'' to the left of the number. The current value of the participant loan must then be included in line 1c(8), column (b), of Schedule H (participant loans—end of year) or in line 1a, column (b), of Schedule I (plan assets—end of year).

Although certain participant loans deemed distributed are to be reported on line 2g of the Schedule H or Schedule I, and are not to be reported on the Schedule H or Schedule I as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. See Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

Line 2h. The amount to be reported for expenses involving administrative service providers (salaries, fees, and commissions) include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;

2. Fees and expenses for accounting, actuarial, legal, investment management, investment advice, and securities brokerage services;

3. Contract administrator fees;

4. Fees and expenses for individual plan trustees, including reimbursement for travel, seminars, and meeting expenses; and

5. Fees and expenses paid for valuations and appraisals of real estate and closely held securities.

Line 2i. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan, including among others, office supplies and equipment, telephone, postage, rent and expenses associated with the ownership of a building used in operation of the plan.

Line 2j. Enter the total of all benefits paid or due as reported on lines 2e, 2f, and 2g and all other plan expenses (lines 2h and 2i) during the year.

Line 2l. Enter the net value of all assets transferred to and from the plan during the plan year including those resulting from mergers and spinoffs. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Transfers out at the end of the year should be reported as occurring during the plan year.

Note: A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., should not be included on line 2l but must be included in benefit payments reported on line 2e. Do not submit IRS Form 1099–R with Form 5500.

Lines 3a through 3g. You must check either ''Yes'' or ''No'' on each line to report whether the plan held any assets in the listed categories at any time during the plan year. If ''Yes'' is checked on any line, enter in the amount column for that line the current value of the assets held at the end of the plan year or ''0'' if no assets remain in the category at the end of the plan year. You should allocate the value of the plan's interest in a commingled trust containing the assets of more than one plan on a line-by-line basis, except do not include on lines 3a through 3g the value of the plan's interest in any CCT, PSA, MTIA, or 103–12 IE (see Instructions for definitions of CCT, PSA, MTIA, and 103–12 IE).

Line 3a. Enter the value of the plan's participation in a partnership or joint venture, unless the partnership or joint venture is a 103–12 IE.

Line 3b. The term ''employer real property'' means real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer. For purposes of determining the time at which a plan acquires employer real property for purposes of this line, such property shall be deemed to be acquired by the plan on the date on which the plan acquires the property or on the date on which the lease to the employer (or affiliate) is entered into, whichever is later.

Line 3d. An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper.

Line 3e. Enter the current value of all loans to participants including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account that are made in accordance with 29 CFR 2550.408b–1 and secured solely by a portion of the participant's vested accrued benefit. When applicable, combine this amount with the current value of any other participant loans. Do not include any amount of a participant loan deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)–1, if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If both of these circumstances apply, report the loan as a deemed distribution on line 2g. However, if either of these circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be

included on line 3e without regard to the occurrence of a deemed distribution.

Note: After participant loans have been deemed distributed and reported on line 2g of the Schedule I or H, they are no longer required to be reported as assets on the Schedule I or H. However, such loans (including interest accruing thereon after the deemed distribution) that have not been repaid are still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulation section 1.411(a)–7(d)(5). See Q&As 12 and 19 of Treasury Regulation section 1.72(p)–1.

Line 3f. Enter the current value of all loans made by the plan, except participant loans reportable on line 3e. Include the sum of the value of loans for construction, securities loans, commercial and/or residential mortgage loans that are not subject to Code section 72(p) (either by making or participating in the loans directly or by purchasing loans originated by a third party), and other miscellaneous loans.

Line 3g. Include all property that has concrete existence and is capable of being processed, such as goods, wares, merchandise, furniture, machines, equipment, animals, automobiles, etc. This includes collectibles, such as works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, musical instruments, and historical objects (documents, clothes, etc.). Do not include the value of a plan's interest in property reported on lines 3a through 3f, or intangible property, such as patents, copyrights, goodwill, franchises, notes, mortgages, stocks, claims, interests, or other property that embodies intellectual or legal rights.

Part II—Compliance Questions

Answer all lines either ''Yes'' or ''No,'' and if lines 4a through 4i are ''Yes'' or line 4l is ''Yes,'' an amount must be entered. If you check ''No'' on line 4k you must attach the report of an independent qualified public accountant (IQPA) or a statement that the plan is eligible and elects to defer attaching the IQPA's opinion pursuant to 29 CFR 2520.104–50 in connection with a short plan year of seven months or less. Plans with all of their funds held in a master trust should check ''No'' on Schedule I, lines 4b, c, and i.

Line 4a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3–102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Plans that check ''Yes'' must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions must be included on line 4a of the Schedule H or I, as applicable, for the year in which the contributions were delinquent and must be carried over and reported again on line 4a of the Schedule H or I, as applicable, for each subsequent year until the year after the violation has been fully corrected, which correction includes payment of the late contributions and reimbursement of the plan for lost earnings or profits. If no participant contributions were received or withheld by the employer during the plan year, answer ''No.''

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or on line 4d. *See* Advisory Opinion 2002–02A, available at *http://www.dol.gov/ebsa*.

TIP: For those Schedule I filers required to submit an IQPA report, delinquent participant contributions reported on line 4a must be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b) for purposes of preparing the IQPA's opinion even though they are no longer required to be listed on Part III of the Schedule G. If the information contained on line 4a is not presented in accordance with regulatory requirements, i.e., when the IQPA concludes that the scheduled information required by line 4a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. For more information, *see* EBSA's Frequently Asked Questions About Reporting Delinquent Contributions on the Form 5500, available on the Internet at *http://www.dol.gov/ebsa*. These Frequently Asked Questions clarify that plans have an obligation to include delinquent participant contributions on their financial statements and supplemental schedules and that the IQPA's report covers such delinquent contributions even though they are no longer required to be included on Part III of the Schedule G. Although all delinquent participant contributions must be reported on line 4a, delinquent contributions for which the DOL Voluntary Fiduciary Correction Program (VFCP) requirements and the conditions of Prohibited Transaction Exemption (PTE) 2002–51 have been satisfied do not need to be treated as nonexempt party-in-interest transactions.

The VFCP describes how to apply, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of PTE 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, *see* 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). All delinquent participant contributions must be reported on line 4a even if violations have been corrected. Information about the VFCP is also available on the Internet at *http://www.dol.gov/ebsa*.

Line 4a Schedule. Attach a Schedule of Delinquent Participant Contributions using the format below if you entered ''Yes'' on Line 4a and you are checking ''No'' on Line 4k because you are not claiming the audit waiver for the plan. If you choose to include participant loan repayments on Line 4a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as apply to delinquent transmittals of participant contributions.

SCHEDULE I LINE 4A.—SCHEDULE OF DELINQUENT PARTICIPANT CONTRIBUTIONS

Participant contributions transferred late to plan	Total that constitute nonexempt prohibited transactions			Total fully corrected under VFCP and PTE 2002–51
	Contributions not corrected	Contributions corrected outside VFCP	Contributions pending correction in VFCP	
Note here if Late Participant Loan Repayments are included: □				

Line 4b. Plans that check ''Yes'' must enter the amount. The due date, payment amount and conditions for determining default of a note or loan are usually contained in the documents establishing the note or loan. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally, loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate. Do not include participant loans made under an individual account plan with investment experience segregated for each account that were made in accordance with 29 CFR 2550.408b–1 and secured solely by a portion of the participant's vested accrued benefit.

Line 4c. Plans that check ''Yes'' must enter the amount. A lease is an agreement conveying the right to use property, plant or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

Line 4d. Plans that check ''Yes'' must enter the amount. Check ''Yes'' if any nonexempt transaction with a party-in-interest occurred regardless of whether the transaction is disclosed in the IQPA's report. Do not check ''Yes'' with respect to transactions that are: (1) Statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); (4) the holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01; (5) a transaction of a 103–12 IE with parties other than the plan; or (6) delinquent participant contributions reported on line 4a. You may indicate that an application for an administrative exemption is pending. If you are unsure whether a transaction is exempt or not, you should consult with either a qualified public accountant, legal counsel, or both. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, an IRS Form 5330 should be filed with the IRS to pay the excise tax on the transaction.

TIP: Applicants that satisfy the VFCP requirements and the conditions of PTE 2002–51 (see the instructions for line 4a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the Form 5330 with the IRS. For more information, *see* 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). When the conditions of PTE 2002–51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering line 4d.

Party-in-Interest. For purposes of this form, party-in-interest is deemed to include a disqualified person. See Code section 4975(e)(2). The term ''party-in-interest'' means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of: (1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, (2) the capital interest or the profits interest of a partnership, or (3) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of: (1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in A, B, C, D, or E;

H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

Nonexempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account.

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Line 4e. Plans that check ''Yes'' must enter the aggregate amount of fidelity bond coverage for all claims. Check ''Yes'' only if the plan itself (as opposed

to the plan sponsor or administrator) is a named insured under a fidelity bond from an approved surety covering plan officials and that protects the plan as described in 29 CFR part 2580. Generally, every plan official of an employee benefit plan who ''handles'' funds or other property of such plan must be bonded. Generally, a person shall be deemed to be ''handling'' funds or other property of a plan, so as to require bonding, whenever his or her other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR part 2580 describe the bonding requirements, including the definition of ''handling'' (29 CFR 2580.412–6), the permissible forms of bonds (29 CFR 2580.412–10), the amount of the bond (29 CFR part 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412–23). Information concerning the list of approved sureties and reinsurers is available on the Internet at *http://www.fms.treas.gov/c570*.

Note: Plans are permitted under certain conditions to purchase fiduciary liability insurance with plan assets. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and are not fidelity bonds reported in line 4e.

Line 4f. Check ''Yes'' if the plan suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If ''Yes'' is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

CAUTION: Willful failure to report is a criminal offense. See ERISA section 501.

Lines 4g and 4h. Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at time of the determination. See ERISA section 3(26).

An accurate assessment of fair market value is essential to a pension plan's ability to comply with the requirements set forth in the Code (e.g., the exclusive benefit rule of Code section 401(a)(2), the limitations on benefits and contributions under Code section 415, and the minimum funding requirements under Code section 412) and must be determined annually.

Examples of assets that may not have a readily determinable value on an established market (e.g., NYSE, AMEX, over the counter, etc.) include real estate, nonpublicly traded securities, shares in a limited partnership, and collectibles. Do not check ''Yes'' on line 4g for mutual fund shares or insurance company investment contracts. Also do not check ''Yes'' on line 4g if the plan is a defined contribution plan and the only assets the plan holds, that do not have a readily determinable value on an established market are: (1) Participant loans not in default, or (2) assets over which the participant exercises control within the meaning of section 404(c) of ERISA.

Although the current value of plan assets must be determined each year, there is no requirement that the assets (other than certain nonpublicly traded employer securities held in ESOPs) be valued every year by independent third-party appraisers.

Enter in the amount column the fair market value of the assets referred to on line 4g whose value was not readily determinable on an established market and which were not valued by an independent third-party appraiser in the plan year. Generally, as it relates to these questions, an appraisal by an independent third party is an evaluation of the value of an asset prepared by an individual or firm who knows how to judge the value of such assets and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisals.

Line 4i. Include as a single security all securities of the same issue. An example of a single issue is a certificate of deposit issued by the XYZ Bank on July 1, 2008, which matures on June 30, 2009, and yields 5.5%. For the purposes of line 4i, do not check ''Yes'' for securities issued by the U.S. Government or its agencies. Also, do not check ''Yes'' for securities held as a result of participant-directed transactions.

Line 4j. Check ''Yes'' if all the plan assets (including insurance/annuity contracts) were distributed to the participants and beneficiaries, legally transferred to the control of another plan, or brought under the control of the PBGC.

Check ''No'' for a welfare benefit plan that is still liable to pay benefits for claims that were incurred before the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Line 4k. Check ''Yes'' if you are claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46. You are eligible to claim the waiver if the Schedule I is being filed for:

1. A small welfare plan, or

2. A small pension plan for a plan year that began on or after April 18, 2001, that complies with the conditions of 29 CFR 2520.104–46 summarized below.

Check ''No'' and attach the report of the IQPA meeting the requirements of 29 CFR 2520.103–1(b) if you are not claiming the waiver. Also check ''No,'' and attach the required IQPA reports or the required explanatory statement if you are relying on 29 CFR 2520.104–50 in connection with a short plan year of seven months or less. At the top of any attached 2520.104–50 statement, enter ''2520.104–50 Statement, Schedule I, Line 4k.''

For more information on the requirements for deferring an IQPA report pursuant to 29 CFR 2520.104–50 in connection with a short plan year of seven months or less and the contents of the required explanatory statement, see the instructions for Schedule H, line 3d(2) or call the EFAST Help Line at [number to be provided].

Note: For plans that check ''No,'' the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards if the information reported on line 4a is not presented in accordance with regulatory requirements.

The following summarizes the conditions of 29 CFR 2520.104–46 that must be met for a small pension plan with a plan year beginning on or after April 18, 2001, to be eligible for the waiver. For more information regarding these requirements, see the EBSA's Frequently Asked Questions On The Small Pension Plan Audit Waiver Regulation and 29 CFR 2520.104–46, which are available at *http://www.dol.gov/ebsa*, or call the EFAST Help Line at [number to be provided].

Condition 1: At least 95 percent of plan assets are ''qualifying plan assets'' as of the end of the preceding plan year, or any person who handles assets of the plan that do not constitute qualifying plan assets is bonded in accordance with the requirements of ERISA section 412 (see the instructions for line 4e), except that the amount of the bond shall

not be less than the value of such non-qualifying assets.

The determination of the ''percent of plan assets'' as of the end of the preceding plan year and the amount of any required bond must be made at the beginning of the plan's reporting year for which the waiver is being claimed. For purposes of this line, you will have satisfied the requirement to make these determinations at the beginning of the plan reporting year for which the waiver is being claimed if they are made as soon after the date when such year begins as the necessary information from the preceding reporting year can practically be ascertained. See 29 CFR 2580.412–11, 14 and 19 for additional guidance on these determinations, and 29 CFR 2580.412–15 for procedures to be used for estimating these amounts if there is no preceding plan year.

The term ''qualifying plan assets,'' for purposes of this line, means:

1. Any assets held by any of the following regulated financial institutions:

a. A bank or similar financial institution as defined in 29 CFR 2550.408b–4(c);

b. An insurance company qualified to do business under the laws of a state;

c. An organization registered as a broker-dealer under the Securities Exchange Act of 1934; or

d. Any other organization authorized to act as a trustee for individual retirement accounts under Code section 408.

2. Shares issued by an investment company registered under the Investment Company Act of 1940 (e.g., mutual funds);

3. Investment and annuity contracts issued by any insurance company qualified to do business under the laws of a state;

4. In the case of an individual account plan, any assets in the individual account of a participant or beneficiary over which the participant or beneficiary has the opportunity to exercise control and with respect to which the participant or beneficiary is furnished, at least annually, a statement from a regulated financial institution referred to above describing the assets held or issued by the institution and the amount of such assets;

5. Qualifying employer securities, as defined in ERISA section 407(d)(5); and

6. Participant loans meeting the requirements of ERISA section 408(b)(1).

Condition 2: The administrator must include in the summary annual report (SAR) or, in the case of plans subject to section 101(f) of the Act, the annual funding notice (described in § 2520.101–5), furnished to participants and beneficiaries in accordance with 29 CFR 2520.104b–10:

1. The name of each regulated financial institution holding or issuing qualifying plan assets and the amount of such assets reported by the institution as of the end of the plan year (this SAR disclosure requirement does not apply to qualifying employer securities, participant loans and individual account assets described in paragraphs 4, 5 and 6 above);

2. The name of the surety company issuing the fidelity bond, if the plan has more than 5% of its assets in non-qualifying plan assets;

3. A notice that participants and beneficiaries may, upon request and without charge, examine or receive from the plan evidence of the required bond and copies of statements from the regulated financial institutions describing the qualifying plan assets; and

4. A notice that participants and beneficiaries should contact the EBSA Regional Office if they are unable to examine or obtain copies of the regulated financial institution statements or evidence of the required bond, if applicable.

A Model Notice that plans can use to satisfy the enhanced SAR (or Annual Funding Notice) disclosure requirements to be eligible for the audit waiver is available as an Appendix to 29 CFR 2520.104–46.

Condition 3: In addition, in response to a request from any participant or beneficiary, the administrator, without charge to the participant or beneficiary, must make available for examination, or upon request furnish copies of, each regulated financial institution statement and evidence of any required bond.

Examples. Plan A, which has a plan year that began on or after April 18, 2001, had total assets of $600,000 as of the end of the 2000 plan year that included: Investments in various bank, insurance company and mutual fund products of $520,000; investments in qualifying employer securities of $40,000; participant loans (meeting the requirements of ERISA section 408(b)(1)), totaling $20,000; and a $20,000 investment in a real estate limited partnership. Because the only asset of the plan that did not constitute a ''qualifying plan asset'' is the $20,000 real estate limited partnership investment and that investment represents less than 5% of the plan's total assets, no fidelity bond is required as a condition for the plan to be eligible for the waiver for the 2001 plan year.

Plan B is identical to Plan A except that of Plan B's total assets of $600,000 as of the end of the 2000 plan year, $558,000 constitutes ''qualifying plan assets'' and $42,000 constitutes non-qualifying plan assets. Because 7%—more than 5%—of Plan B's assets do not constitute ''qualifying plan assets,'' Plan B, as a condition to be eligible for the waiver for the 2001 plan year, must ensure that it has a fidelity bond in an amount equal to at least $42,000 covering persons handling its non-qualifying plan assets. Inasmuch as compliance with ERISA section 412 generally requires the amount of the bond be not less than 10% of the amount of all the plan's funds or other property handled, the bond acquired for section 412 purposes may be adequate to cover the non-qualifying plan assets without an increase (i.e., if the amount of the bond determined to be needed for the relevant persons for section 412 purposes is at least $42,000). As demonstrated by the foregoing example, where a plan has more than 5% of its assets in non-qualifying plan assets, the required bond is for the total amount of the non-qualifying plan assets, not just the amount in excess of 5%.

If you need further information regarding these requirements, see 29 CFR 2520.104–46 which is available at *http://www.dol.gov/ebsa* or call the EFAST Help Line at [number to be provided].

Line 4l. You must check ''Yes'' if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 4m. Check ''Yes'' if there was a ''blackout period.'' A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A ''blackout period'' generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) Part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an

individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, *see* 29 CFR 2520.101–3 (available at *http://www.dol.gov/ebsa*).

Line 4n. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? If so, check ''Yes.'' *See* 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Also, answer ''Yes'' if one of the exceptions to the notice requirement under 29 CFR 2520.101–3 applies.

Line 5a. Check ''Yes'' if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If ''Yes'' is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter ''-0-'' if no reversion occurred during the current plan year.

CAUTION: A Form 5500 must be filed for each year the plan has assets, and, for a welfare benefit plan, if the plan is still liable to pay benefits for claims that were incurred before the termination date, but not yet paid. *See* 29 CFR 2520.104b–2(g)(2)(ii).

Line 5b. Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spinoffs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, EIN, and PN of the transferee plan(s) involved on lines 5b(1), b(2) and b(3). If you need additional space, include an attachment with the information required for 5b(1), (2), and (3) for each additional plan and label the attachment, ''Schedule I, line 5b—Additional Plans.''

Do not use a social security number in lieu of an EIN or include an attachment that contains visible social security numbers. The Schedule I and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule I or the inclusion of a visible social security number on an attachment may result in the rejection of the filing.

Note: A distribution of all or part of an individual participant's account balance that is reportable on IRS Form 1099–R should not be included on line 5b. Do not submit IRS Form 1099–R with the Form 5500.

CAUTION: IRS Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing IRS Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. *See* PBGC Form 10, Post-Event Notice of Reportable Events, and PBGC Form 10—Advance, Advance Notice of Reportable Events.

2009 Instructions for Schedule R (Form 5500) Retirement Plan Information

General Instructions

Purpose of Schedule

Schedule R (Form 5500), Retirement Plan Information, reports certain information on plan distributions, funding, and the adoption of amendments increasing the value of benefits in a defined benefit pension plan, as well as certain information on ESOPs and multiemployer defined benefit plans.

Who Must File

Schedule R must be attached to a Form 5500 filed for both tax qualified and nonqualified pension benefit plans. The parts of the Schedule R that must be completed depend on whether the plan is subject to the minimum funding standards of Code section 412 or ERISA section 302 and the type of plan. *See* line item requirements under ''Specific Instructions'' for more details.

Exceptions: (1) Schedule R should not be completed when the Form 5500 Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). *See* the Form 5500 instructions for Limited Pension Plan Reporting for more information.

(2) Schedule R also should not be completed if each of the following conditions is met:

- The plan is not a defined benefit plan or otherwise subject to the minimum funding standards of Code section 412 or ERISA section 302.
- No plan benefits that would be reportable on line 1 of Part I of this Schedule R were distributed during the plan year. See the instructions for Part I, line 1, below.
- No benefits, as described in the instructions for Part I, line 2, below, were paid during the plan year other than by the plan sponsor or plan administrator. (This condition is not met if benefits were paid by the trust or any other payor(s) which are reportable on IRS Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc, using an EIN other than that of the plan sponsor or plan administrator reported on line 2b or 3b of Form 5500.)
- Unless the plan is a profit-sharing, ESOP or stock bonus plan, no plan benefits of living or deceased participants were distributed during the plan year in the form of a single sum distribution. See the instructions for Part I, line 3, below.
- The plan is not an ESOP.
- The plan is not a multiemployer defined benefit plan.

Check the Schedule R box on the Form 5500 (Part II, line 10a(1)) if a Schedule R is attached to the Form 5500.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule R is attached. The plan name may be abbreviated.

Do not use a Social Security number in line D in lieu of an EIN. The Schedule R and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a Social Security number on this Schedule R or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on IRS Form SS–4, Application for Employer Identification Number, as soon as possible. You can obtain an IRS Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Part I—Distributions

''Distribution'' includes only payments of benefits during the plan year, in cash, in kind, by purchase for the distributee of an annuity contract from an insurance company, or by distribution of life insurance contracts. It does not include corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions, or the income allocable to any of these amounts. It also does not

include the distribution of elective deferrals or the return of employee contributions to correct excess annual additions under Code section 415, or the gains attributable to these amounts. Finally, it does not include a loan treated as a distribution under Code section 72(p); however, it does include a distribution of a plan loan offset amount as defined in section 1.402(c)–2, Q&A 9(b).

''Participant'' for purposes of Schedule R means any present of former employee who at any time during the plan year had an accrued benefit (account balance in a defined contribution plan) in the plan.

Line 1. Enter the total value of all distributions made during the year (regardless of when the distribution began) in any form other than cash, annuity contracts issued by an insurance company, distribution of life insurance contracts, marketable securities, within the meaning of Code section 731(c)(2), or plan loan offset amounts. Do not include eligible rollover distributions paid directly to eligible retirement plans in a direct rollover under Code section 401(a)(31) unless such direct rollovers include property other than that enumerated in the preceding sentence.

Line 2. Enter the EIN(s) of any payor(s) (other than the plan sponsor or plan administrator on line 2b or 3b of the Form 5500) who paid benefits reportable on IRS Form 1099–R on behalf of the plan to participants or beneficiaries during the plan year. This is the EIN that appears on the IRS Forms 1099–R that are issued to report the payments. Include the EIN of the trust if different than that of the sponsor or plan administrator. If more than two payors made such payments during the year, enter the EINs of the two payors who paid the greatest dollar amounts during the year, in cash or in kind, that are reportable on IRS Form 1099–R, regardless of when the payment began, but take into account payments from an insurance company under an annuity only in the year the contract was purchased.

Line 3. Enter the number of living or deceased participants whose benefits under the plan were distributed during the plan year in the form of a single sum distribution. For this purpose, a distribution of a participant's benefits will not fail to be a single sum distribution merely because, after the date of the distribution, the plan makes a supplemental distribution as a result of earnings or other adjustments made after the date of the single sum distribution. Also include any participants whose benefits were distributed in the form of a direct rollover to the trustee or custodian of a qualified plan or individual retirement account.

Part II—Funding Information

Complete Part II only if the plan is subject to the minimum funding requirements of Code section 412 or ERISA section 302.

All qualified defined benefit and defined contribution plans are subject to the minimum funding requirements of Code section 412 unless they are described in the exceptions listed under section 412(e)(2). These exceptions include profit-sharing or stock bonus plans, insurance contract plans described in section 412(e)(3), and certain plans to which no employer contributions are made.

Nonqualified employee pension benefit plans are subject to the minimum funding requirements of ERISA section 302 unless specifically exempted under ERISA sections 4(a) or 301(a).

The employer or plan administrator of a single-employer or multiple-employer defined benefit plan that is subject to the minimum funding requirements must file the Schedule SB as an attachment to Form 5500. Schedule MB is filed for multiemployer defined benefit plans and certain money purchase defined contribution plans (whether they are single or multiemployer plans). However, Schedule MB is not required to be filed for a money purchase defined contribution plan that is subject to the minimum funding requirements unless the plan is currently amortizing a waiver of the minimum funding requirements.

Line 4. Check ''Yes'' if, for purposes of computing the minimum funding requirements for the plan year, the plan administrator is making an election intended to satisfy the requirements of Code section 412(d)(2) or ERISA section 302(d)(2). Under Code section 412(d)(2) and ERISA section 302(d)(2), a plan administrator may elect to have any amendment, adopted after the close of the plan year for which it applies, treated as having been made on the first day of the plan year if all of the following requirements are met:

1. The requirement is adopted no later than two and one-half months after the close of such plan year (two years for a multiemployer plan);

2. The amendment does not reduce the accrued benefit of any participant determined as of the beginning of such plan year; and

3. The amendment does not reduce the accrued benefit of any participant determined as of the adoption of the amendment unless the plan administrator notified the Secretary of the Treasury of the amendment and the Secretary either approved the amendment or failed to disapprove the amendment within 90 days after the date the notice was filed.

See Temporary Regulations section 11.412(c)–7(b) for details on when and how to make the election and what information to include on the statement of election, which must be filed with the Form 5500 Return/Report.

Line 5. If a money purchase defined contribution plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, complete lines 3, 9, and 10 of Schedule MB. See instructions for Schedule MB. Attach Schedule MB to Form 5500. The Schedule MB does not need to be signed by an enrolled actuary for a money purchase defined contribution plan.

Line 6a. The minimum required contribution for a money purchase defined contribution plan for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 6b. Include all contributions for the plan year made not later than 8½ months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed. For example, do not include receivable contributions for this purpose.

Line 6c. If the minimum required contribution exceeds the contributions for the plan year made not later than 8½ months after the end of the plan year, the excess is an accumulated funding deficiency for the plan year. File IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing IRS Form 5330 on time.

Line 7. Will the minimum required contribution remaining in 6c be made no later than 8½ months after the end of the plan year? If ''Yes,'' and contributions are actually made by this date, then there will be no reportable deficiency and IRS Form 5330 will not need to be filed.

Line 8. A revenue procedure providing for automatic approval for a change in funding method for a plan year generally does not apply unless the plan administrator or an authorized representative of the plan sponsor explicitly agrees to the change. If a

change in funding method made pursuant to such a revenue procedure (or class ruling letter) is to be applicable for the current plan year, this line generally must be checked ''Yes.'' In certain situations, however, the requirement that the plan administrator or an authorized representative of the plan sponsor agree to the change in funding method will be satisfied if the plan administrator or an authorized representative of the plan sponsor is made aware of the change. In these situations, this line must be checked ''N/A.'' *See* section 6.01(2) of Rev. Proc. 2000–40, 2000–42 I.R.B. 357.

Part III—Amendments

Line 9.

• Check ''No'' if no amendments were adopted during this plan year that increased or decreased the value of benefits.

• Check ''Increase'' if an amendment was adopted during the plan year that increased the value of benefits in any way. This includes an amendment providing for an increase in the amount of benefits or rate of accrual, more generous lump sum factors, COLAs, more rapid vesting, additional payment forms, and/or earlier eligibility for some benefits.

• Check ''Decrease'' if an amendment was adopted during the plan year that decreased the value of benefits in any way. This includes a decrease in future accruals, closure of the plan to new employees, and accruals being frozen for some or all participants.

• If the amendments that were adopted increased the value of some benefits but decreased the value of others, check ''Both.''

Part IV—ESOP Information

Line 11b. A loan is a ''back-to-back loan'' if the following requirements are satisfied:

1. The loan from the employer corporation to the ESOP qualifies as an exempt loan under DOL regulations at 29 CFR 2550.408b–3 and under Treasury Regulation sections 54.4975–7 and 54.4975–11; and

2. The repayment terms of the loan from the sponsoring corporation to the ESOP are substantially similar to the repayment terms of the loan from the commercial lender to the sponsoring employer.

Part V—Additional Employer Information for Multiemployer Defined Benefit Pension Plans

Line 13. Line 13 should be completed only by multiemployer defined benefit pension plans that are subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA). Enter the information on Lines 13a through 13e for any employer that contributed more than five (5) percent of the plan's total contributions for the 2009 plan year. The employers should be listed in descending order according to the dollar amount of their contributions to the plan. Complete as many entries as are necessary to list all employers that contributed more than five (5) percent of the plan's contributions.

Line 13a. Enter the name of the contributing employer to the plan.

Line 13b. Enter the EIN number of the contributing employer to the plan. Do not enter a social security number in lieu of an EIN. The Form 5500 is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this line may result in the rejection of the filing.

EINs may be obtained by applying for one on IRS Form SS–4, Application for Employer Identification Number. You can obtain an IRS Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov.* The EBSA does not issue EINs.

Line 13c. Dollar Amount Contributed. Enter the total dollar amount contributed to the plan by the employer for all covered workers in all locations for the plan year. Do not include the portion of an aggregated contribution that is for another plan, such as a welfare benefit plan, a defined contribution pension plan or another defined benefit pension plan.

Line 13d. Collective Bargaining Agreement Expiration Date. Enter the date on which the employer's collective bargaining agreement expires. If the employer has more than one collective bargaining agreement requiring contributions to the plan, check the box and include, as an attachment, a summary of each applicable expiration date.

Line 13e. Contribution Rate Information. Enter the information in (e)(1) and (e)(2). If the employer uses different contribution rates for different classifications of employees or different places of business, check the box and instead of completing items (e)(1) and (e)(2), include, as an attachment, a list of each applicable contribution rate with a description of the rate, providing the information in (e)(1) and (e)(2); skip line 13(e)(1) and 13(e)(2).

Line 13(e)(1). Contribution Rate (dollars and cents). Enter the employer's contribution rate per contribution base unit (e.g., if the contribution rate is $xx.xx per covered hour worked, enter $xx.xx). If the employer's contribution rate changed during the plan year, enter the last contribution rate in effect for the plan year.

Line 13e(2). Base Unit Measure. Check the contribution base unit on which the contribution rate is based. If the contribution rate is not measured on an hourly, weekly, or unit-of-production basis, check ''other'' and indicate the basis of measurement.

Lines 14–17—[RESERVED]

Part VI—Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

Lines 18 and 19—[RESERVED]

LIST OF PLAN CHARACTERISTIC CODES FOR FORM 5500 LINES 8A AND 8B

Code	
	Defined Benefit Pension Features
1A	Benefits are primarily pay related.
1B	Benefits are primarily flat dollar (includes dollars per year of service).
1C	Cash balance or similar plan—Plan has a ''cash balance'' formula. For this purpose, a ''cash balance'' formula is a benefit formula in a defined benefit plan by whatever name (e.g., personal account plan, pension equity plan, life cycle plan, cash account plan, etc.) that rather than, or in addition to, expressing the accrued benefit as a life annuity commencing at normal retirement age, defines benefits for each employee in terms more common to a defined contribution plan such as a single sum distribution amount (e.g., 10 percent of final average pay times years of service, or the amount of the employee's hypothetical account balance).
1D	Floor offset plan—Plan benefits are subject to offset for retirement benefits provided by an employer-sponsored defined contribution plan.

LIST OF PLAN CHARACTERISTIC CODES FOR FORM 5500 LINES 8A AND 8B—Continued

Code	
1E	Code section 401(h) arrangement—Plan contains separate accounts under Code section 401(h) to provide employee health benefits.
1F	Code section 414(k) arrangement—Benefits are based partly on the balance of the separate account of the participant (also include appropriate defined contribution pension feature codes).
1G	Covered by PBGC—Plan is covered under the PBGC insurance program (see ERISA section 4021).
1H	Plan covered by PBGC that was terminated and closed out for PBGC purposes—Before the end of the plan year (or a prior plan year), (1) the plan terminated in a standard (or distress) termination and completed the distribution of plan assets in satisfaction of all benefit liabilities (or all ERISA Title IV benefits for distress termination); or (2) a trustee was appointed for a terminated plan pursuant to ERISA section 4042.
1I	Frozen Plan—As of the last day of the plan year, the plan provides that no participant will get any new benefit accrual (whether because of service or compensation).
	Defined Contribution Pension Features
2A	Age/Service Weighted or New Comparability or Similar Plan—Age/Service Weighted Plan: Allocations are based on age, service, or age and service. New Comparability or Similar Plan: Allocations are based on participant classifications and a classification(s) consists entirely or predominantly of highly compensated employees; or the plan provides an additional allocation rate on compensation above a specified threshold, and the threshold or additional rate exceeds the maximum threshold or rate allowed under the permitted disparity rules of Code section 401(l).
2B	Target benefit plan.
2C	Money purchase (other than target benefit).
2D	Offset plan—Plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer.
2E	Profit-sharing.
2F	ERISA section 404(c) plan—This plan, or any part of it, is intended to meet the conditions of 29 CFR 2550.404c–1.
2G	Total participant-directed account plan—Participants have the opportunity to direct the investment of all the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c–1 is intended to be met.
2H	Partial participant directed account plan—Participants have the opportunity to direct the investment of a portion of the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c–1 is intended to be met.
2I	Stock bonus.
2J	Code section 401(k) feature—A cash or deferred arrangement described in Code section 401(k) that is part of a qualified defined contribution plan that provides for an election by employees to defer part of their compensation or receive these amounts in cash.
2K	Code section 401(m) arrangement—Employee contributions are allocated to separate accounts under the plan or employer contributions are based, in whole or in part, on employee deferrals or contributions to the plan. Not applicable if plan is 401(k) plan with only QNECs and/or QMACs. Also not applicable if Code section 403(b)(1), 403(b)(7), or 408 arrangements/accounts annuities.
2L	Code section 403(b)(1) arrangement.
2M	Code section 403(b)(7) accounts.
2N	Code section 408 accounts and annuities—*See* Limited Pension Plan Reporting instructions for pension plan utilizing individual Code section 408(b) retirement accounts or annuities as the funding vehicle for providing benefits.
2O	ESOP other than a leveraged ESOP.
2P	Leveraged ESOP—An ESOP that acquires employer securities with borrowed money or other debt-financing techniques.
2Q	The employer maintaining this ESOP is an S corporation.
2R	Participant-directed brokerage accounts provided as an investment option under the plan.
2S	Plan provides for automatic enrollment in plan that has employee contributions deducted from payroll.
2T	Total or partial participant-directed account plan—plan uses default investment account for participants who fail to direct assets in their account.
	Other Pension Benefit Features
3B	Plan covering Self-Employed Individuals.
3C	Plan not intended to be qualified—A plan not intended to be qualified under Code sections 401, 403, or 408.
3D	Master plan—A pension plan that is made available by a sponsor for adoption by employers; that is the subject of a favorable opinion letter; and for which a single funding medium (for example, a trust or custodial account) is established for the joint use of all adopting employers.
3E	Prototype plan—A pension plan that is made available by a sponsor for adoption by employers; that is the subject of a favorable opinion or notification letter; and under which a separate funding medium (for example, a separate trust or custodial account) is established for each participating employer.
3F	Plan sponsor(s) received services of leased employees, as defined in Code section 414(n), during the plan year.
3H	Plan sponsor(s) is (are) a member(s) of a controlled group (Code sections 414(b), (c), or (m)).
3I	Plan requiring that all or part of employer contributions be invested and held, at least for a limited period, in employer securities.
3J	U.S.-based plan that covers residents of Puerto Rico and is qualified under both Code section 401 and section 8565 of Puerto Rico Code.
	Welfare Benefit Features
4A	Health (other than vision or dental).
4B	Life Insurance.
4C	Supplemental unemployment.
4D	Dental.
4E	Vision.
4F	Temporary disability (accident and sickness).

LIST OF PLAN CHARACTERISTIC CODES FOR FORM 5500 LINES 8A AND 8B—Continued

Code	
4G	Prepaid legal.
4H	Long-term disability.
4I	Severance pay.
4J	Apprenticeship and training.
4K	Scholarship (funded).
4L	Death benefits (include travel accident but not life insurance).
4P	Taft-Hartley Financial Assistance for Employee Housing Expenses.
4Q	Other.
4R	Unfunded, fully insured, or combination unfunded/fully insured welfare plan that will not file a Form 5500 for next plan year pursuant to 29 CFR 2520.104–20.
4S	Unfunded, fully insured, or combination unfunded/fully insured welfare plan that stopped filing Form 5500s in an earlier plan year pursuant to 29 CFR 2520.104–20.
4T	10 or more employer plan under Code section 419A(f)(6).
4U	Collectively bargained welfare benefit arrangement under Code section 419A(f)(5).

ERISA Compliance Quick Checklist

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary, and it is not to be filed with your Form 5500.

If you answer ''No'' to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports?

2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?

3. Do you respond to written participant inquires for copies of plan documents and information within 30 days?

4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?

5. Is your plan covered by a fidelity bond against losses due to fraud or dishonesty?

6. Are the plan's investments diversified so as to minimize the risk of large losses?

7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?

8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks associated with plan investments before making the investments?

9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?

10. Did the plan pay participant benefits on time and in the correct amounts?

11. Did the plan give participants and beneficiaries 30 days advance notice before imposing a ''blackout period'' of at least three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to change their plan investments, obtain loans from the plan, or obtain distributions from the plan?

If you answer ''Yes'' to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official? (For example, has the plan made a loan to or participated in an investment with the employer?)

2. Has the plan official used the assets of the plan for his/her own interest?

3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Employee Benefits Security Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

QUICK REFERENCE CHART OF FORM 5500 SCHEDULES AND ATTACHMENTS [1]

[This chart provides only general guidance—please see specific Form 5500 instructions for complete filing requirements.]

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE
Form 5500	Must complete	Must complete [3]	Must complete [2]	Must complete [2 3]	Must complete.
Schedule A (Insurance Information).	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if MTIA, 103–12 IE, or GIA has insurance contracts.
Schedule MB (Actuarial Information).	Must complete if multi-employer defined benefit plan or money purchase plan subject to minimum funding standards [4].	Must complete if multi-employer defined benefit plan or money purchase plan subject to minimum funding standards [4].	Not required	Not required	Not required.

QUICK REFERENCE CHART OF FORM 5500 SCHEDULES AND ATTACHMENTS [1]—Continued

[This chart provides only general guidance—please see specific Form 5500 instructions for complete filing requirements.]

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE
Schedule SB (Actuarial Information).	Must complete if single-employer or multiple-employer defined benefit plan.	Must complete if single-employer or multiple-employer defined benefit plan.	Not required	Not required	Not required.
Schedule C Service Provider Information.	Must complete if service provider was paid $5,000 or more and/or an accountant or actuary was terminated.	Not required	Must complete if service provider was paid $5,000 or more and/or an accountant or actuary was terminated.	Not required	MTIAs, GIAs, and 103–12 IEs must complete Part I if service provider paid $5,000 or more. GIAs and 103–12 IEs must complete Part II if accountant was terminated.
Schedule D DFE/Participating Plan Information.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103–12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103–12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103–12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103–12 IE.	All DFEs must complete Part II, and DFEs that invest in a CCT, PSA, or 103–12 IE must also complete Part I.
Schedule G (Financial Schedules).	Must complete if Schedule H, lines 4b, 4c, or ad are "yes".	Not required	Must complete if Schedule H, lines 4b, 4c, or 4d are "Yes" [2].	Not required	Must complete if Schedule H, lines 4b, 4c, or 4d for a GIA, MTIA or 103–12 IE are "Yes."
Schedule H (Financial Information).	Must complete [5]	Not required	Must complete [2 5]	Not required	All DFEs must complete Parts I, II, and III. MTIAs, GIAs and 103–12 IEs must also complete Part IV.[5]
Schedule I (Small Plan Financial Information).	Not required	Must complete [3]	Not required	Must complete [3]	Not required.
Schedule R (Pension Plan Information).	Must complete [6]	Must complete [3 6]	Not required	Not required	Not required.
Accountant's Report	Must attach	Not required	Must attach	Not required	Must attach for a GIA or 103–12 IE.

[1] This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 instructions for complete information on filing requirements (e.g., Who Must File and What to File). For example, a pension plan is exempt from filing any schedules if the plan uses Code section 408 individual retirement accounts as the sole funding vehicle for providing benefits. *See* Limited Pension Plan Reporting.

[2] Unfunded, fully insured and combination unfunded/fully insured welfare plans covering fewer than 100 participants at the beginning of the plan year that meet the requirements of 29 CFR 2520.104–20 are exempt from filing an annual report. (*See* Who Must File). Such a plan with 100 or more participants must file an annual report, but is exempt under 29 CFR 2520.104–44 from the accountant's report requirement and completing Schedule H, but MUST complete Schedule G, Part III, to report any nonexempt transactions. See What To File.

[3] Small pension benefit plans and small welfare plans not exempt from filing an annual return/report may be eligible to file the Form 5500–SF. (*See* Who May File of the instructions for the Form 5500–SF).

[4] Certain money purchase defined contribution plans are required to complete Schedule MB in accordance with the instructions. Also see instructions for line 5 of Schedule R and line 12a of 5500–SF.

[5] Schedules of assets and reportable (5%) transactions also must be filed with the Form 5500 if Schedule H, line 4i or 4j is "Yes."

[6] A pension plan is exempt from filing Schedule R if each of the following conditions is met:

- The plan is not a defined benefit plan or otherwise subject to the minimum funding standards of Code section 412 or ERISA section 302.
- No plan benefits that would be reportable on line 1 of Part I of this Schedule R were distributed during the plan year. See the instructions for Part I, line 1, below.
- No benefits, as described in the instructions for Part I, line 2, below, were paid during the plan year other than by the plan sponsor or plan administrator. (This condition is not met if benefits were paid by the trust or any other payor(s) which are reportable on IRS Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., using an EIN other than that of the plan sponsor or plan administrator reported on line 2b or 3b of Form 5500.)
- Unless the plan is a profit-sharing, ESOP or stock bonus plan, no plan benefits of living or deceased participants were distributed during the plan year in the form of a single sum distribution. See the instructions for Part I, line 3, below.
- The plan is not an ESOP.
- The plan is not a multiemployer defined benefit plan.

OMB CONTROL NUMBERS

Agency	OMB No.
Employee Benefits Security Administration	1210–0110 1210–0089

OMB CONTROL NUMBERS—Continued

Agency	OMB No.
Internal Revenue Service	1545–1610

OMB CONTROL NUMBERS—Continued

Agency	OMB No.
Pension Benefit Guaranty Corporation	1212–0057

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA and in Code sections 6058(a) and 6059(a). You are required to give us the information. We need it to determine whether the plan is operating according to the law.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or its instructions must be retained as long as their contents may become material in the administration of the Internal Revenue Code or are required to be maintained pursuant to Title I or IV of ERISA. The Form 5500 return/reports are open to public inspection and are subject to publication on the Internet.

The time needed to complete and file the forms listed below reflects the combined requirements of the Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation. These times will vary depending on individual circumstances. The estimated average times are:

	Pension plans		Welfare plans	
	Large	Small	Large	Small
Form 5500	1 hr., 54 min	1 hr., 19 min	1 hr., 45 min	1 hr., 14 min
Schedule A	2 hr., 52 min	2 hr., 51 min	3 hr., 39 min	2 hr., 43 min.
Schedule SB	6 hr., 38 min	6 hr., 49 min	N/A	N/A.
Schedule MB	7 hr., 52 min	4 hr., 14 min	N/A	N/A.
Schedule C	3 hr., 4 min	N/A	3 hr., 38 min	N/A.
Schedule D	1 hr., 39 min	20 min	1 hr., 52 min	20 min.
Schedule G	11 hr., 29 min	N/A	11 hr	N/A.
Schedule H	7 hr., 42 min	N/A	8hr., 35 min	N/A.
Schedule I	N/A	2 hr., 5 min	N/A	1 hr., 55 min.
Schedule R	1 hr., 43 min	1 hr., 5 min	N/A	N/A.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW., IR–6526, Washington, DC 20224. DO NOT send any of these forms or schedules to this address. The forms and schedules must be filed electronically. *See* How to File—Electronic Filing Requirement.

Forms 5500, 5500–SF, and 5500–EZ Codes for Principal Business Activity

This list of principal business activities and their associated codes is designed to classify an enterprise by the type of activity in which it is engaged. These principal activity codes are based on the North American Industry Classification System.[25]

Agriculture, Forestry, Fishing and Hunting

Crop Production

111100 Oilseed & Grain Farming
111210 Vegetable & Melon Farming (including potatoes & yams)
111300 Fruit & Tree Nut Farming
111400 Greenhouse, Nursery, & Floriculture Production
111900 Other Crop Farming (including tobacco, cotton, sugarcane, hay, peanut, sugar beet, & all other crop farming)

Animal Production

112111 Beef Cattle Ranching & Farming
112112 Cattle Feedlots
112120 Dairy Cattle & Milk Production
112210 Hog & Pig Farming
112300 Poultry & Egg Production
112400 Sheep & Goat Farming
112510 Animal Aquaculture (including shellfish & finfish farms & hatcheries)
112900 Other Animal Production

Forestry and Logging

113110 Timber Tract Operations
113210 Forest Nurseries & Gathering of Forest Products
113310 Logging

Fishing, Hunting and Trapping

114110 Fishing
114210 Hunting & Trapping

Support Activities for Agriculture and Forestry

115110 Support Activities for Crop Production (including cotton ginning, soil preparation, planting, & cultivating)
115210 Support Activities for Animal Production
115310 Support Activities For Forestry

Mining

211110 Oil & Gas Extraction
212110 Coal Mining
212200 Metal Ore Mining
212310 Stone Mining & Quarrying
212320 Sand, Gravel, Clay, & Ceramic & Refractory Minerals Mining & Quarrying
212390 Other Nonmetallic Mineral Mining & Quarrying
213110 Support Activities for Mining

Utilities

221100 Electric Power Generation, Transmission & Distribution
221210 Natural Gas Distribution
221300 Water, Sewage, & Other Systems
221500 Combination Gas & Electric

Construction

Construction of Buildings

236110 Residential Building Construction
236200 Nonresidential Building Construction Heavy and Civil Engineering Construction
237100 Utility System Construction
237210 Land Subdivision
237310 Highway, Street, & Bridge Construction
237990 Other Heavy & Civil Engineering Construction Specialty Trade Contractors
238100 Foundation, Structure, & Building Exterior Contractors (including framing carpentry, masonry, glass, roofing, & siding)
238210 Electrical Contractors
238220 Plumbing, Heating, & Air-Conditioning Contractors
238290 Other Building Equipment Contractors
238300 Building Finishing Contractors (including drywall, insulation, painting, wallcovering, flooring, tile, & finish carpentry)
238900 Other Specialty Trade Contractors (including site preparation)

[25] The codes will be updated periodically from one Form year to another to reflect changes in the North American Industry Classification System. See, e.g., North American Industry Classification System—Update for 2007, 70 FR 12390 (Mar. 11, 2005).

Beverage and Tobacco Product Manufacturing

312110 Soft Drink & Ice Mfg
312120 Breweries
312130 Wineries
312140 Distilleries
312200 Tobacco

Manufacturing

Textile Mills and Textile Product Mills

313000 Textile Mills
314000 Textile Product Mills

Apparel Manufacturing

315100 Apparel Knitting Mills
315210 Cut & Sew Apparel Contractors
315220 Men's & Boys' Cut & Sew Apparel Mfg
315230 Women's & Girls' Cut & Sew Apparel Mfg
315290 Other Cut & Sew Apparel Mfg
315990 Apparel Accessories & Other Apparel Mfg

Leather and Allied Product Manufacturing

316110 Leather & Hide Tanning & Finishing
316210 Footwear Mfg (including rubber & plastics)
316990 Other Leather & Allied Product Mfg

Wood Product Manufacturing

321110 Sawmills & Wood Preservation
321210 Veneer, Plywood, & Engineered Wood Product Mfg
21900 Other Wood Product Mfg

Paper Manufacturing

322100 Pulp, Paper, & Paperboard Mills
322200 Converted Paper Product Mfg

Printing and Related Support Activities

323100 Printing & Related Support Activities

Petroleum and Coal Products Manufacturing

324110 Petroleum Refineries (including integrated)
324120 Asphalt Paving, Roofing, & Saturated Materials Mfg
324190 Other Petroleum & Coal Products Mfg

Chemical Manufacturing

325100 Basic Chemical Mfg
325200 Resin, Synthetic Rubber, & Artificial & Synthetic Fibers & Filaments Mfg
325300 Pesticide, Fertilizer, & Other Agricultural Chemical Mfg
325410 Pharmaceutical & Medicine Mfg
325500 Paint, Coating, & Adhesive Mfg
325600 Soap, Cleaning Compound, & Toilet Preparation Mfg
325900 Other Chemical Product & Preparation Mfg

Plastics and Rubber Products Manufacturing

326100 Plastics Product Mfg
326200 Rubber Product Mfg

Nonmetallic Mineral Product Manufacturing

327100 Clay Product & Refractory Mfg
327210 Glass & Glass Product Mfg
327300 Cement & Concrete Product Mfg
327400 Lime & Gypsum Product Mfg
327900 Other Nonmetallic Mineral Product Mfg

Primary Metal Manufacturing

331110 Iron & Steel Mills & Ferroalloy Mfg
331200 Steel Product Mfg from Purchased Steel
331310 Alumina & Aluminum Production & Processing
331400 Nonferrous Metal (except Aluminum) Production & Processing
331500 Foundries Fabricated Metal Product Manufacturing
332110 Forging & Stamping
332210 Cutlery & Handtool Mfg
332300 Architectural & Structural Metals Mfg
332400 Boiler, Tank, & Shipping Container Mfg
332510 Hardware Mfg
332610 Spring & Wire Product Mfg
332700 Machine Shops; Turned Product; & Screw, Nut, & Bolt Mfg
332810 Coating, Engraving, Heat Treating, & Allied Activities
332900 Other Fabricated Metal Product Mfg

Machinery Manufacturing

333100 Agriculture, Construction, & Mining Machinery Mfg
333200 Industrial Machinery Mfg
333310 Commercial & Service Industry Machinery Mfg
333410 Ventilation, Heating, Air-Conditioning, & Commercial Refrigeration Equipment Mfg
333510 Metalworking Machinery Mfg
333610 Engine, Turbine & Power Transmission Equipment Mfg
333900 Other General Purpose Machinery Mfg Computer and Electronic Product Manufacturing
334110 Computer & Peripheral Equipment Mfg
334200 Communications Equipment Mfg
334310 Audio & Video Equipment Mfg
334410 Semiconductor & Other Electronic Component Mfg
334500 Navigational, Measuring, Electromedical, & Control Instruments Mfg
334610 Manufacturing & Reproducing Magnetic & Optical Media

Electrical Equipment, Appliance, and Component Manufacturing

335100 Electric Lighting Equipment Mfg
335200 Household Appliance Mfg
335310 Electrical Equipment Mfg
335900 Other Electrical Equipment & Component Mfg

Transportation Equipment Manufacturing

336100 Motor Vehicle Mfg
336210 Motor Vehicle Body & Trailer Mfg
336300 Motor Vehicle Parts Mfg
336410 Aerospace Product & Parts Mfg
336510 Railroad Rolling Stock Mfg
336610 Ship & Boat Building
336990 Other Transportation Equipment Mfg

Furniture and Related Product Manufacturing

337000 Furniture & Related Product Mfg

Miscellaneous Manufacturing

339110 Medical Equipment & Supplies Mfg
339900 Other Miscellaneous Mfg

Wholesale Trade Merchant

Wholesalers, Durable Goods

423100 Motor Vehicle & Motor Vehicle Parts & Supplies
423200 Furniture & Home Furnishings
423300 Lumber & Other Construction Materials
423400 Professional & Commercial Equipment & Supplies
423500 Metals & Minerals (except Petroleum)
423600 Electrical & Electronic Goods
423700 Hardware, Plumbing & Heating Equipment & Supplies
423800 Machinery, Equipment, & Supplies
423910 Sporting & Recreational Goods & Supplies
423920 Toy & Hobby Goods & Supplies
423930 Recyclable Materials
423940 Jewelry, Watches, Precious Stones, & Precious Metals
423990 Other Miscellaneous Durable Goods

Merchant Wholesalers, Nondurable Goods

424100 Paper & Paper Products
424210 Drugs & Druggists' Sundries
424300 Apparel, Piece Goods, & Notions
424400 Grocery & Related Products
424500 Farm Product Raw Materials
424600 Chemical & Allied Products

424700 Petroleum & Petroleum Products
424800 Beer, Wine, & Distilled Alcoholic Beverages
424910 Farm Supplies
424920 Books, Periodicals, & Newspapers
424930 Flower, Nursery Stock, & Florists' Supplies
424940 Tobacco & Tobacco Products
424950 Paint, Varnish, & Supplies
424990 Other Miscellaneous Nondurable Goods

Wholesale Electronic Markets and Agents and Brokers

425110 Business to Business Electronic Markets
425120 Wholesale Trade Agents & Brokers

Retail Trade

Motor Vehicle and Parts Dealers

441110 New Car Dealers
441120 Used Car Dealers
441210 Recreational Vehicle Dealers
441221 Motorcycle Dealers
441222 Boat Dealers
441229 All Other Motor Vehicle Dealers
441300 Automotive Parts, Accessories, & Tire Stores

Furniture and Home Furnishings Stores

442110 Furniture Stores
442210 Floor Covering Stores
442291 Window Treatment Stores
442299 All Other Home Furnishings Stores

Electronics and Appliance Stores

443111 Household Appliance Stores
443112 Radio, Television, & Other Electronics Stores
443120 Computer & Software Stores
443130 Camera & Photographic Supplies Stores

Building Material and Garden Equipment and Supplies Dealers

444110 Home Centers
444120 Paint & Wallpaper Stores
444130 Hardware Stores
444190 Other Building Material Dealers
444200 Lawn & Garden Equipment & Supplies Stores

Food and Beverage Stores

445110 Supermarkets and Other Grocery (except Convenience) Stores
445120 Convenience Stores
445210 Meat Markets
445220 Fish & Seafood Markets
445230 Fruit & Vegetable Markets
445291 Baked Goods Stores
445292 Confectionery & Nut Stores
445299 All Other Specialty Food Stores
445310 Beer, Wine, & Liquor Stores

Health and Personal Care Stores

446110 Pharmacies & Drug Stores
446120 Cosmetics, Beauty Supplies, & Perfume Stores
446130 Optical Goods Stores
446190 Other Health & Personal Care Stores

Gasoline Stations

447100 Gasoline Stations (including convenience stores with gas)

Clothing and Clothing Accessories Stores

448110 Men's Clothing Stores
448120 Women's Clothing Stores
448130 Children's & Infants' Clothing Stores
448140 Family Clothing Stores
448150 Clothing Accessories Stores
448190 Other Clothing Stores
448210 Shoe Stores
448310 Jewelry Stores
448320 Luggage & Leather Goods Stores

Sporting Goods, Hobby, Book, and Music Stores

451110 Sporting Goods Stores
451120 Hobby, Toy, & Game Stores
451130 Sewing, Needlework, & Piece Goods Stores
451140 Musical Instrument & Supplies Stores
451211 Book Stores
451212 News Dealers & Newsstands
451220 Prerecorded Tape, Compact Disc, & Record Stores

General Merchandise Stores

452110 Department Stores
452900 Other General Merchandise Stores

Miscellaneous Store Retailers

453110 Florists
453210 Office Supplies & Stationery Stores
453220 Gift, Novelty, & Souvenir Stores
453310 Used Merchandise Stores
453910 Pet & Pet Supplies Stores
453920 Art Dealers
453930 Manufactured (Mobile) Home Dealers
453990 All Other Miscellaneous Store

Retailers (including tobacco, candle, & trophy shops)

Nonstore Retailers

454110 Electronic Shopping & Mail-Order Houses
454210 Vending Machine Operators
454311 Heating Oil Dealers
454312 Liquefied Petroleum Gas (bottled gas) Dealers
454319 Other Fuel Dealers
454390 Other Direct Selling Establishments (including door-to-door retailing, frozen food plan providers, party plan merchandisers, & coffee-break service providers)

Transportation and Warehousing Air, Rail, and Water Transportation

481000 Air Transportation
482110 Rail Transportation
483000 Water

Transportation

Truck Transportation

484110 General Freight Trucking, Local
484120 General Freight Trucking, Long-distance
484200 Specialized Freight Trucking

Transit and Ground Passenger Transportation

485110 Urban Transit Systems
485210 Interurban & Rural Bus Transportation
485310 Taxi Service
485320 Limousine Service
485410 School & Employee Bus Transportation
485510 Charter Bus Industry
485990 Other Transit & Ground Passenger Transportation

Pipeline Transportation

486000 Pipeline Transportation Scenic & Sightseeing Transportation
487000 Scenic & Sightseeing

Transportation Support Activities for Transportation

488100 Support Activities for Air Transportation
488210 Support Activities for Rail Transportation
488300 Support Activities for Water Transportation
488410 Motor Vehicle Towing
488490 Other Support Activities for Road Transportation
488510 Freight Transportation Arrangement
488990 Other Support Activities for Transportation Couriers and Messengers
492110 Couriers
492210 Local Messengers & Local Delivery

Warehousing and Storage

493100 Warehousing & Storage (except lessors of miniwarehouses & self-storage units)

Information Publishing Industries (except Internet)

511110 Newspaper Publishers
511120 Periodical Publishers
511130 Book Publishers
511140 Directory & Mailing List Publishers

511190 Other Publishers
511210 Software Publishers Motion Picture and Sound Recording Industries
512100 Motion Picture & Video Industries (except video rental)
512200 Sound Recording Industries Broadcasting (except Internet)
515100 Radio & Television Broadcasting
515210 Cable & Other Subscription Programming

Internet Publishing and Broadcasting

516110 Internet Publishing & Broadcasting Telecommunications
517000 Telecommunications (including paging, cellular, satellite, cable & other program distribution, resellers, & other telecommunications)

Internet Service Providers, Web Search Portals, and Data Processing Services

518111 Internet Service Providers
518112 Web Search Portals
518210 Data Processing, Hosting, & Related Services Other Information Services
519100 Other Information Services (including news syndicates & libraries)

Finance and Insurance Depository Credit Intermediation

522110 Commercial Banking
522120 Savings Institutions
522130 Credit Unions
522190 Other Depository Credit Intermediation

Nondepository Credit Intermediation

522210 Credit Card Issuing
522220 Sales Financing
522291 Consumer Lending
522292 Real Estate Credit (including mortgage bankers & originators)
522293 International Trade Financing
522294 Secondary Market Financing
522298 All Other Nondepository Credit Intermediation Activities Related to Credit Intermediation
522300 Activities Related to Credit Intermediation (including loan brokers, check clearing, & money transmitting)

Securities, Commodity Contracts, and Other Financial Investments and Related Activities

523110 Investment Banking & Securities Dealing
523120 Securities Brokerage
523130 Commodity Contracts Dealing
523140 Commodity Contracts Brokerage
523210 Securities & Commodity Exchanges
523900 Other Financial Investment Activities (including portfolio management & investment advice)

Insurance Carriers and Related Activities

524140 Direct Life, Health, & Medical Insurance & Reinsurance Carriers
524150 Direct Insurance & Reinsurance (except Life, Health & Medical) Carriers
524210 Insurance Agencies & Brokerages
524290 Other Insurance Related Activities (including third-party administration of insurance and pension funds)

Funds, Trusts, and Other Financial Vehicles

525100 Insurance & Employee Benefit Funds
525910 Open-End Investment Funds (Form 1120–RIC)
525920 Trusts, Estates, & Agency Accounts
525930 Real Estate Investment Trusts (Form 1120–REIT)
525990 Other Financial Vehicles (including mortgage REITs & closed-end investment funds)

''Offices of Bank Holding Companies'' and ''Offices of Other Holding Companies'' are located under Management of Companies (Holding Companies).

Real Estate and Rental and Leasing Real Estate

531110 Lessors of Residential Buildings & Dwellings (including equity REITs)
531114 Cooperative Housing (including equity REITs)
531120 Lessors of Nonresidential Buildings (except Miniwarehouses) (including equity REITs)
531130 Lessors of Miniwarehouses & Self-Storage Units (including equity REITs)
531190 Lessors of Other Real Estate Property (including equity REITs)
531210 Offices of Real Estate Agents & Brokers
531310 Real Estate Property Managers
531320 Offices of Real Estate Appraisers
531390 Other Activities Related to Real Estate

Rental and Leasing Services

532100 Automotive Equipment Rental & Leasing
532210 Consumer Electronics & Appliances Rental
532220 Formal Wear & Costume Rental
532230 Video Tape & Disc Rental
532290 Other Consumer Goods Rental
532310 General Rental Centers
532400 Commercial & Industrial Machinery & Equipment Rental & Leasing

Lessors of Nonfinancial Intangible Assets (except copyrighted works)

533110 Lessors of Nonfinancial Intangible Assets (except copyrighted works)

Professional, Scientific, and Technical Services Legal Services

541110 Offices of Lawyers
541190 Other Legal Services Accounting, Tax Preparation, Bookkeeping, and Payroll Services
541211 Offices of Certified Public Accountants
541213 Tax Preparation Services
541214 Payroll Services
541219 Other Accounting Services Architectural, Engineering, and Related Services
541310 Architectural Services
541320 Landscape Architecture Services
541330 Engineering Services
541340 Drafting Services
541350 Building Inspection Services
541360 Geophysical Surveying & Mapping Services
541370 Surveying & Mapping (except Geophysical) Services
541380 Testing Laboratories Specialized Design Services
541400 Specialized Design Services (including interior, industrial, graphic, & fashion design)

Computer Systems Design and Related Services

541511 Custom Computer Programming Services
541512 Computer Systems Design Services
541513 Computer Facilities Management Services
541519 Other Computer Related Services

Other Professional, Scientific, and Technical Services

541600 Management, Scientific, & Technical Consulting Services
541700 Scientific Research & Development Services
541800 Advertising & Related Services
541910 Marketing Research & Public Opinion Polling
541920 Photographic Services
541930 Translation & Interpretation Services
541940 Veterinary Services
541990 All Other Professional, Scientific, & Technical Services

Management of Companies (Holding Companies)

551111 Offices of Bank Holding Companies
551112 Offices of Other Holding Companies

Administrative and Support and Waste Management and Remediation Services

Administrative and Support Services

561110 Office Administrative Services
561210 Facilities Support Services
561300 Employment Services
561410 Document Preparation Services
561420 Telephone Call Centers
561430 Business Service Centers (including private mail centers & copy shops)
561440 Collection Agencies
561450 Credit Bureaus
561490 Other Business Support Services (including repossession services, court reporting, & stenotype services)
561500 Travel Arrangement & Reservation Services
561600 Investigation & Security Services
561710 Exterminating & Pest Control Services
561720 Janitorial Services
561730 Landscaping Services
561740 Carpet & Upholstery Cleaning Services
561790 Other Services to Buildings & Dwellings
561900 Other Support Services (including packaging & labeling services, & convention & trade show organizers)

Waste Management and Remediation Services

562000 Waste Management & Remediation Service

Educational Services

611000 Educational Services (including schools, colleges, & universities)

Health Care and Social Assistance Offices of Physicians and Dentists

621111 Offices of Physicians (except mental health specialists)
621112 Offices of Physicians, Mental Health Specialists
621210 Offices of Dentists Offices of Other Health Practitioners
621310 Offices of Chiropractors
621320 Offices of Optometrists
621330 Offices of Mental Health Practitioners (except Physicians)
621340 Offices of Physical, Occupational & Speech Therapists, & Audiologists
621391 Offices of Podiatrists
621399 Offices of All Other Miscellaneous Health Practitioners Outpatient Care Centers
621410 Family Planning Centers
621420 Outpatient Mental Health & Substance Abuse Centers
621491 HMO Medical Centers
621492 Kidney Dialysis Centers
621493 Freestanding Ambulatory Surgical & Emergency Centers
621498 All Other Outpatient Care Centers Medical and Diagnostic Laboratories
621510 Medical & Diagnostic Laboratories Home Health Care Services
621610 Home Health Care Services Other Ambulatory Health Care Services
621900 Other Ambulatory Health Care Services (including ambulance services & blood & organ banks)

Hospitals

622000 Hospitals Nursing and Residential Care Facilities
623000 Nursing & Residential Care Facilities Social Assistance
624100 Individual & Family Services
624200 Community Food & Housing, & Emergency & Other Relief Services
624310 Vocational Rehabilitation Services
624410 Child Day Care Services

Arts, Entertainment, and Recreation Performing Arts, Spectator Sports, and Related Industries

711100 Performing Arts Companies
711210 Spectator Sports (including sports clubs & racetracks)
711300 Promoters of Performing Arts, Sports, & Similar Events
711410 Agents & Managers for Artists, Athletes, Entertainers, & Other Public Figures
711510 Independent Artists, Writers, & Performers Museums, Historical Sites, and Similar Institutions
712100 Museums, Historical Sites, & Similar Institutions Amusement, Gambling, and Recreation Industries
713100 Amusement Parks & Arcades
713200 Gambling Industries
713900 Other Amusement & Recreation Industries (including golf courses, skiing facilities, marinas, fitness centers, & bowling centers)

Accommodation and Food Services Accommodation

721110 Hotels (except Casino Hotels) & Motels
721120 Casino Hotels
721191 Bed & Breakfast Inns
721199 All Other Traveler Accommodation
721210 RV (Recreational Vehicle) Parks & Recreational Camps
721310 Rooming & Boarding Houses Food Services and Drinking Places
722110 Full-Service Restaurants
722210 Limited-Service Eating Places
722300 Special Food Services (including food service contractors & caterers)
722410 Drinking Places (Alcoholic Beverages)

Other Services

Repair and Maintenance

811110 Automotive Mechanical & Electrical Repair & Maintenance
811120 Automotive Body, Paint, Interior & Glass Repair
811190 Other Automotive Repair & Maintenance (including oil change & lubrication shops & car washes)
811210 Electronic & Precision Equipment Repair & Maintenance
811310 Commercial & Industrial Machinery & Equipment (except Automotive & Electronic) Repair & Maintenance
811410 Home & Garden Equipment & Appliance Repair & Maintenance
811420 Reupholstery & Furniture Repair
811430 Footwear & Leather Goods Repair
811490 Other Personal & Household Goods Repair & Maintenance

Personal and Laundry Services

812111 Barber Shops
812112 Beauty Salons
812113 Nail Salons
812190 Other Personal Care Services (including diet & weight reducing centers)
812210 Funeral Homes & Funeral Services
812220 Cemeteries & Crematories
812310 Coin-Operated Laundries & Drycleaners
812320 Drycleaning & Laundry Services (except Coin-Operated)
812330 Linen & Uniform Supply
812910 Pet Care (except Veterinary) Services
812920 Photofinishing
812930 Parking Lots & Garages
812990 All Other Personal Services

Religious, Grantmaking, Civic, Professional, and Similar Organizations

813000 Religious, Grantmaking, Civic, Professional, & Similar Organizations (including condominium and homeowners associations)
813930 Labor Unions and Similar Labor Organizations
921000 Governmental Instrumentality or Agency

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110, and 4065 of ERISA and section 6058 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are amended as set forth herein, including the addition of the proposed Short Form 5500 and the replacement of the Schedule B with Schedules SB and MB.

Signed at Washington, DC, this 30th day of October 2007.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Joseph Grant,

Director, Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.

Charles E.F. Millard,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. 07–5521 Filed 11–15–07; 8:45 am]

BILLING CODE 4510–29–P

Federal Register

Friday,

November 16, 2007

Part III

Environmental Protection Agency

40 CFR Parts 60 and 63

Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2006–0699; FRL–8492–4]

RIN 2060–AN71

Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing final amendments to the standards of performance for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and to the standards of performance for equipment leaks of volatile organic compounds in petroleum refineries. The amended standards for the synthetic organic chemicals manufacturing industry apply to affected facilities that are constructed, reconstructed, or modified after January 5, 1981, and on or before November 7, 2006. The amended standards for petroleum refineries apply to affected facilities that are constructed, reconstructed, or modified after January 4, 1983, and on or before November 7, 2006. In this action, EPA is also issuing new standards of performance for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and for equipment leaks of volatile organic compounds in petroleum refineries which apply to affected facilities that are constructed, reconstructed, or modified after November 7, 2006. The final amendments and new standards are based on the results of our review of the existing regulations as required by section 111(b)(1)(B) of the Clean Air Act.

DATES: This final rule is effective on November 16, 2007. The incorporation by reference of certain publications listed in these rules is approved by the Director of the Federal Register as of November 16, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0699. All documents in the docket are listed in the Federal Docket Management System index at *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, 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 Air and Radiation Docket, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning the final amendments and new standards, contact Ms. Karen Rackley, Coatings and Chemicals Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0634; fax number: (919) 541–0246; e-mail address: *rackley.karen@epa.gov.* For information concerning compliance and enforcement of the final amendments and new standards, contact Ms. Marcia Mia, Air Compliance Branch, Compliance Assessment and Media Programs Division, Office of Compliance (MC 2223A), Environmental Protection Agency, Washington, DC 20460; telephone number: (202) 564–7042; fax number: (202) 564–0050; and e-mail address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code[1]	Examples of potentially regulated entities
Industry	324110 Primarily 325110, 325192, 325193, and 325199.	Petroleum refiners. Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in 40 CFR 60.489.

[1] North American Industrial Classification Code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.480, 60.590, 60.480a, and 60.590a. If you have any questions regarding the applicability of the final amendments or new standards to a particular entity, contact the people listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is available on the WWW through the Technology Transfer Network (TTN). Following signature, EPA will post a copy of the final rule on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b) of the Clean Air Act (CAA), judicial review of the final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by January 15, 2008. Under section 307(d)(7)(B) of the CAA, only an objection to the final rule that was raised with reasonable specificity during the period for pubic comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[O]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that is was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time

specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Outline. The information presented in this preamble is organized as follows:

I. Background Information
A. What is the statutory authority for the final amendments and new standards?
B. What are the current equipment leak NSPS?
C. How were the final amendments developed?
II. Summary of the Final Amendments, New Standards, and Changes Since Proposal
A. What are the final amendments to 40 CFR part 60, subpart VV?
B. What are the final amendments to 40 CFR part 60, subpart GGG?
C. What are the requirements of 40 CFR part 60, subpart VVa?
D. What are the requirements of 40 CFR part 60, subpart GGGa?
III. Rationale for Changes Since Proposal
A. How did EPA develop new standards for 40 CFR part 60, subparts VVa and GGGa?
B. How did EPA develop the new compliance requirements in 40 CFR part 60, subparts VVa and GGGa?
C. How did EPA develop the final amendments to 40 CFR part 60, subparts VV and GGG?
IV. Summary of Comments and Responses
A. Applicability
B. Standards
C. Test Methods and Procedures
D. Recordkeeping and Reporting
E. Burden Estimates
V. Summary of Cost, Environmental, Energy, and Economic Impacts
A. What are the impacts for SOCMI process units?
B. What are the impacts for petroleum refining process units?
C. What are the economic impacts?
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background Information

A. What is the statutory authority for the final amendments and new standards?

New source performance standards (NSPS) implement CAA section 111 and are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The primary purpose of the NSPS are to attain and maintain ambient air quality by ensuring that the best demonstrated emission control technologies are installed as the industrial infrastructure is modernized. Since 1970, the NSPS have been successful in achieving long-term emissions reductions at numerous industries by assuring cost-effective controls are installed on new, reconstructed, or modified sources.

Section 111 of the CAA requires that NSPS reflect the application of the best system of emission reductions which (taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. This level of control is commonly referred to as best demonstrated technology (BDT).

Section 111(b)(1)(B) of the CAA requires that EPA periodically review and revise the standards of performance, as necessary, to reflect improvements in methods for reducing emissions. Based on the results of the review required by CAA section 111(b)(1)(B), we proposed amendments to the NSPS for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI) and the petroleum refining industry on November 7, 2006 (71 FR 65302). In this action, EPA is finalizing amendments to 40 CFR part 60, subparts VV and GGG and issuing new standards of performance in 40 CFR part 60, subparts VVa and GGGa.

B. What are the current equipment leak NSPS?

New source performance standards for equipment leaks of VOC have been developed for four source categories. Subpart VV of 40 CFR part 60 applies to SOCMI process units. Subpart DDD of 40 CFR part 60, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry, applies to polypropylene, polyethylene, polystyrene, and poly (ethylene terephthalate) process units. Subpart GGG of 40 CFR part 60 applies to petroleum refining process units. Subpart KKK of 40 CFR part 60 applies to onshore natural gas processing plants. Subparts DDD, GGG, and KKK of 40 CFR part 60 cross-reference the requirements in subpart VV, and they specify source category-specific definitions and exceptions to the requirements in subpart VV.

The NSPS for equipment leaks of VOC in the SOCMI (40 CFR part 60, subpart VV) were originally promulgated on October 18, 1983 (48 FR 48335) and apply to all equipment, as defined by the rule, within a process unit in the SOCMI that commenced construction, reconstruction, or modification after January 5, 1981. For the purpose of subpart VV, the SOCMI consists of process units producing any of the chemicals listed in 40 CFR 60.489 of subpart VV. The standards apply to pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines (OEL), valves, and flanges or other connectors in VOC service. Depending on the type of equipment, the standards require either periodic monitoring for and repair of leaks, the use of specified equipment to minimize leaks, or specified work practices. Monitoring for leaks must be conducted using EPA Method 21 in appendix A–7 to 40 CFR part 60 or other approved equivalent monitoring techniques. Owners and operators must keep records that identify the equipment that is subject to the standards, identify equipment that is leaking, and document attempts at repair. Information related to leaks and repair attempts also must be included in semiannual reports. This subpart has been amended several times between 1984 and 2000. Typically, these amendments added definitions, exemptions, alternative compliance options, and clarifications. For example, one amendment provides an option to comply with the equipment leak provisions in the Consolidated Federal Air Rule (CAR) (40 CFR part 65, subpart F). None of these amendments increased the intended performance level of the standards.

The NSPS for equipment leaks of VOC in petroleum refineries (40 CFR part 60, subpart GGG) apply to petroleum refining process units for which construction, reconstruction, or modification commenced after January

4, 1983. Those standards were originally promulgated on May 30, 1984 (49 FR 22606), and have been amended only once since the original promulgation (65 FR 61768, October 17, 2000) to update the American Society for Testing and Materials (ASTM) test method references.

C. How were the final amendments developed?

We proposed amendments to 40 CFR part 60, subpart VV and 40 CFR part 60, subpart GGG on November 7, 2006 (71 FR 65302). The preamble for the proposed amendments described the rationale for the proposed amendments. Public comments were solicited at the time of proposal. The public comment period lasted from November 7, 2006, to February 8, 2007. We offered at proposal the opportunity for a public hearing concerning the proposed amendments, but no hearing was requested. We also published a Notice of Additional Data Availability (NODA) on July 9, 2007 (72 FR 37157). The NODA provided additional information regarding OEL. Public comments were solicited at the time of publication, and the public comment period lasted from July 9, 2007, to August 8, 2007.

We received a total of 28 public comment letters during the comment periods, 23 on the proposed amendments and five on the NODA. Comments were submitted by industry trade associations and consultants, chemical companies and petroleum refineries, state regulatory agencies, local government agencies, and environmental groups. These final amendments reflect our consideration of all of the comments received during the comment periods. Major public comments on the proposed amendments, along with our responses to those comments, are summarized in this preamble.

II. Summary of the Final Amendments, New Standards, and Changes Since Proposal

In response to public comments, we have revised the scope and applicability of the proposed amendments to the standards of performance for equipment leaks of VOC for SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG). As proposed, all of the amendments to subparts VV and GGG, except the change in leak definitions for pumps and valves, applied to affected facilities in these industries that commenced construction, reconstruction, or modification after January 5, 1981, (SOCMI) or January 4, 1983, (petroleum refineries). In addition, all of the proposed amendments, except the leak definition change, applied to affected facilities under all other NSPS that cross-reference subpart VV (i.e., 40 CFR part 60, subparts DDD and KKK).

Based on the public comments, we decided to include only clarifications, changes that reduce burden, and additional compliance options in the final amendments to 40 CFR part 60, subparts VV and GGG. The final amendments to both subparts also limit which SOCMI and petroleum refinery affected sources are subject to the existing subparts. Specifically, the existing subparts only apply to those existing affected sources that commenced construction, reconstruction, or modification after January 5, 1981, (SOCMI) or January 4, 1983, (petroleum refineries) and on or before November 7, 2006. The final amendments to subpart VV also apply to affected sources under NSPS that cross-reference subpart VV (i.e., 40 CFR part 60, subparts DDD and KKK).

In addition to amending 40 CFR part 60, subparts VV and GGG, we also decided to develop new standards in new subparts VVa and GGGa of 40 CFR part 60 that apply only to SOCMI and petroleum refinery affected sources, respectively, that commence construction, reconstruction, or modification after November 7, 2006. These new standards parallel the standards in the amended subparts VV and GGG, but they also include different standards for pumps in light liquid service and valves in gas/vapor or light liquid service (i.e., lower leak definitions than in subparts VV and GGG), and they include additional recordkeeping and instrument calibration requirements. Furthermore, the new standards in 40 CFR part 60, subpart VVa include monitoring and repair requirements for connectors. The new standards do not apply to affected sources under 40 CFR part 60, subparts DDD or KKK because we have not amended those subparts to reference the requirements in subpart VVa and we have not completed an analysis to determine if the new standards are BDT for subparts DDD and KKK.

A. What are the final amendments to 40 CFR part 60, subpart VV?

The final amendments to 40 CFR part 60, subpart VV provide additional compliance options, clarify ambiguous provisions, and make technical corrections. These changes are summarized in Table 1 in section III.C of this preamble.

1. Applicability

The owner or operator of an affected facility subject to 40 CFR part 60, subpart VV may choose to comply with the requirements in new 40 CFR part 60, subpart VVa instead of the requirements in subpart VV.

2. Standards

The final amendments simplify the compliance requirements for pumps. When indications of liquids dripping are observed during weekly inspections, 40 CFR part 60, subpart VV requires repair of the leak following the same procedures as if the leak were detected by monitoring. The final amendment in 40 CFR 60.482–2(b)(2) allows the owner or operator to either repair the leak by eliminating the indications of liquids dripping or determine if it is leaking based on the instrument reading obtained by monitoring the pump in accordance with EPA Method 21 (40 CFR part 60, appendix A–7) or other approved equivalent monitoring techniques. This amendment will focus the leak detection and repair (LDAR) program on finding and repairing VOC leaks.

The final amendments also include an alternative compliance option that allows less frequent monitoring for pumps and valves in batch process units that operate part-time during the year. This alternative applies to currently required monthly, quarterly, and semiannual monitoring intervals; less frequent monitoring is not allowed for monitoring that is currently required on an annual or less frequent basis. For example, pumps in a process unit that operate 5,250 hours per year (about 60 percent of full-time operation) may be monitored every other month rather than monthly. This alternative will ensure that monitoring occurs consistently while the process unit is operating. The alternative monitoring schedule for batch processes was developed as part of the development of the hazardous organic national emission standards for hazardous air pollutants (NESHAP) (HON) (57 FR 62680). This alternative has been determined to be comparable to the provisions for continuous processes. As the time in use increases, the monitoring frequencies are identical for both batch and continuous processes.

In response to public comments, we have revised the proposed clarification to the initial monitoring requirements for pumps and valves (that all pumps and valves be monitored within the first month of operation after installation). The final amendments require the owner or operator to monitor all pumps

on a monthly basis regardless of whether the pump is new or existing. The owner or operator of a new valve must monitor the valve for the first time within 30 days after being placed into service to ensure proper installation. Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected. As an alternative to monitoring a new valve within 30 days, if the valves in the process unit are monitored under the alternative standards for valves that allow skip period leak detection and repair in 40 CFR 60.483–2, the owner or operator must count the new valve as leaking when calculating the percentage of valves leaking. If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into two or three subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

The clarifications to the requirements for sampling connection systems in 40 CFR 60.482–5 have been revised since proposal to add additional destinations for purged process fluid. All containers must be covered when not being filled or emptied. The amendments also clarify what materials must be captured and returned to the process during sampling.

In response to comments, we have revised the proposed option for delay of repair in 40 CFR 60.482–9. The proposed amendment would have allowed the owner or operator to discontinue monitoring for equipment on delay-of-repair. We have not included this in the final amendments and new standards because a leak may worsen while on delay-of-repair and require a more immediate shutdown. Therefore, all equipment on delay-of-repair must be monitored as scheduled. The option to consider equipment to be repaired if two consecutive readings are below the leak definition was not removed. If two consecutive readings are below the applicable leak definition, the owner or operator may remove the equipment from delay-of-repair.

3. Definitions

Several amendments clarify the original intent of the definitions in 40 CFR part 60, subpart VV. These definitions include ''connector,'' ''process unit,'' and ''sampling connection system.'' In addition, definitions of ''closed-loop system,'' ''closed-purge system,'' ''storage vessel,'' and ''transfer rack'' were added to further clarify existing definitions. The definition of ''process unit'' is discussed in further detail in section IV.A.3 of this preamble. The rationale for revising and adding the other definitions is included in Docket ID No. EPA–HQ–OAR–2006–0699.

4. Miscellaneous Corrections

Finally, the final amendments include a few technical corrections to fix references and other miscellaneous errors in 40 CFR part 60, subpart VV. No changes have been made to the proposed corrections, and a number of additional corrections are included in the final amendments. The technical corrections are identified in section III.A.3 of the preamble to the proposed amendments (71 FR 65307–65308, November 7, 2006) as well as Table 1 of this preamble.

B. What are the final amendments to 40 CFR part 60, subpart GGG?

A few minor changes have been made to the 40 CFR part 60, subpart GGG amendments since proposal. The heading and 40 CFR 60.590(b) were revised to clarify that the subpart applies to sources that commence construction, reconstruction, or modification on or before November 7, 2006, and 40 CFR 60.590(d) was revised to exclude facilities subject to 40 CFR part 60, subpart VVa. Proposed revisions that remain in the final amendments to subpart GGG include a definition of ''asphalt'' and an exemption from the requirements for OEL in 40 CFR 60.482–6(a) through (c) for OEL containing asphalt. The definition of ''process unit'' is comparable to the definition in 40 CFR part 60, subpart VV.

The final amendments also include a few technical corrections to fix references and other miscellaneous errors in 40 CFR part 60, subpart GGG. These changes are identified in section III.B.5 of the preamble to the proposed amendments (71 FR 65309, November 7, 2006). No changes have been made to these corrections since proposal.

C. What are the requirements of 40 CFR part 60, subpart VVa?

40 CFR part 60, subpart VVa applies to affected facilities in the SOCMI that are constructed, reconstructed, or modified after November 7, 2006. This new subpart includes all the requirements of 40 CFR part 60, subpart VV, as amended, along with new provisions. The owner or operator of an affected facility subject to subpart VVa may elect to comply with the CAR at 40 CFR part 65, subpart F, or the HON at 40 CFR part 63, subpart H, instead of the requirements in subpart VVa, provided they still comply with the requirements in 40 CFR 60.482–6a.

40 CFR part 60, subpart VVa includes lower leak definitions for pumps and valves than 40 CFR part 60, subpart VV. Under subpart VVa, the leak definition for pumps in light liquid service is 2,000 parts per million (ppm) (5,000 ppm for pumps handling polymerizing monomers) instead of 10,000 ppm. The leak definition for valves in gas/vapor service or light liquid service is 500 ppm instead of 10,000 ppm. Rationale for this new standard was provided in section III.A.1 of the preamble to the proposed amendments and is discussed further in section III.A.1 of this preamble.

40 CFR part 60, subpart VVa also includes requirements for monitoring connectors. The owner or operator is required to monitor connectors at a leak definition of 500 ppm and at a frequency that is based on the percentage of connectors found to be leaking. The rationale supporting the LDAR provisions for connectors is located in section III.A.2 of this preamble.

40 CFR part 60, subpart VVa includes additional recordkeeping requirements and quality assurance measures. Records must identify the monitoring instrument, operator, equipment, the date, and maximum instrument reading. A calibration drift assessment is required at the end of each day of monitoring and records of monitoring instrument calibrations are required. The calibration drift assessment requirements proposed for 40 CFR part 60, subpart VV were revised based on public comments. The requirements in the new standards include a requirement to remonitor equipment if the drift assessment shows positive drift. The requirements in the new standards provide for a less stringent remonitoring effort for drift assessments showing negative drift.

D. What are the requirements of 40 CFR part 60, subpart GGGa?

40 CFR part 60, subpart GGGa applies to affected facilities at petroleum refineries that are constructed, reconstructed, or modified after November 7, 2006. New subpart GGGa

includes the requirements in 40 CFR part 60, subpart GGG, as amended. Affected facilities must comply with the requirements in new subpart VVa of 40 CFR part 60, except for the monitoring requirements applicable to connectors.

III. Rationale for Changes Since Proposal

A. How did EPA develop new standards for 40 CFR part 60, subparts VVa and GGGa?

Five sources of information were considered in reviewing the appropriateness of the current NSPS requirements for new sources: (1) Applicable Federal regulations; (2) applicable state and local regulations; (3) data from National Enforcement Investigations Center (NEIC) inspections; (4) emissions data provided by industry representatives; and (5) petroleum refinery consent decrees. (A significant number of refineries, representing about 77 percent of the national refining capacity, are subject to consent decrees that limit the emissions from 40 CFR part 60, subpart GGG process units.) Once we identified leak definitions for various equipment types, we evaluated these leak definitions in conjunction with technical feasibility, costs, and emission reductions to determine BDT for each type of equipment.

The cost methodology incorporates the calculation of annualized costs and emission reductions associated with each of the options presented. Cost-effectiveness is the annualized cost of control divided by the annual emission reductions achieved. For NSPS regulations, the standard metric for expressing costs and emission reductions is the impact on all affected facilities accumulated over the first 5 years of the regulation. Details of the calculations can be found in the public docket (EPA–OAR–HQ–2006–0699). Our BDT determinations took all relevant factors into account, including cost considerations.

For each of the new standards, the predominant method used to reduce emissions from equipment leaks is the work practice of an LDAR program that includes periodic monitoring of equipment using EPA Method 21. This method has been used for more than 20 years to detect leaks and is currently the most widely-used test method. However, other approved methods may be used to detect leaks.

We also considered an equipment standard requiring installation of ''leakless'' equipment. ''Leakless'' equipment, such as diaphragm valves, is less likely to leak than standard equipment, but leaks may still develop. Therefore, monitoring or other type of observation is appropriate to ensure that leaks are caught if they develop. In addition, these types of equipment may not be suitable for all possible process operating temperatures, pressures, and fluid types. We could not identify any new ''leakless'' technologies that could be applied in all applications. Therefore, requiring ''leakless'' equipment is not technically feasible and this option was not considered to be BDT for SOCMI or petroleum refining sources. We note that 40 CFR part 60, subpart VV does include provisions for equipment designed for no detectable emissions, so owners or operators that do replace existing equipment with ''leakless'' equipment have options for compliance.

1. Leak Definitions for Pumps and Valves

We previously demonstrated that leak definitions of 2,000 ppm for pumps and 500 ppm for valves are BDT in the preamble to the proposed amendments to 40 CFR part 60, subparts VV and GGG (November 7, 2006, 71 FR 65305, with additional discussion at 71 FR 65308). Since proposal, the cost-effectiveness values for this new requirement have changed slightly based on changes to the assumptions used to develop emission estimates; section V of this preamble includes details on the specific changes. For SOCMI, the estimated emission reductions are 94 tons of VOC per year at a cost savings of $380/ton. For petroleum refineries, the estimated emission reductions are 13 tons of VOC per year at a cost of $1,600/ton. The cost to achieve these emission reductions is still considered to be reasonable; therefore, we maintain our original conclusion that EPA Method 21 monitoring of pumps and valves and repair of leaks above 2,000 ppm for pumps and 500 ppm for valves is BDT.

We have also evaluated the cost-effectiveness of lowering the leak definitions even further for valves because there are some state rules and petroleum refinery consent decrees at lower levels. The results of that analysis show that an LDAR program for valves at a leak definition lower than 500 ppm is not cost-effective. The analysis shows emission reductions of 26 tons of additional VOC per year at a cost-effectiveness of $5,700/ton for SOCMI and emission reductions of 8 tons of additional VOC per year at a cost-effectiveness of $16,000/ton for refineries. The additional VOC emission reductions at a leak definition lower than 500 ppm is not cost-effective. The results of the impacts analysis is provided in the docket (Docket ID No. EPA–HQ–OAR–2006–0699).

We decided not to consider a lower leak definition for pumps because we do not have evidence that it will achieve significant emission reductions at reasonable cost and because such a requirement would impose an unwarranted increase in the compliance burden. No other Federal or state rules require repair of pumps with leaks below 2,000 ppm, and concerns have been expressed in the past that repair of pumps with lower concentrations could result in significant and costly maintenance. We also cannot estimate the emission reductions because we are unsure how effective repairs will be for pumps with low leak concentrations. In addition, many facilities that will be subject to the new standards have other process units that are subject to other standards. Including a leak definition in the new standards that differs from the leak definitions in all other rules would make compliance more challenging at such facilities and unnecessarily increase the potential for inadvertent errors.

We also did not consider increasing the number of times per year that valves and pumps must be monitored. Valves and pumps are already subject to monthly monitoring. The cost to monitor more frequently would outweigh the possible emission reductions. Additionally, pumps are subject to weekly inspections for indications of liquids dripping. Therefore, the monitoring frequency was not changed and is still considered BDT.

2. Other New Standards in 40 CFR Part 60, Subpart VVa

Connector Monitoring. The current NSPS in 40 CFR part 60, subpart VV limits VOC emissions from connectors by specifying that if a potential leak is found by visual, audible, olfactory, or any other detection method, the owner or operator must eliminate the indications of the potential leak or monitor the connector to determine whether the potential leak is leaking VOC greater than 10,000 ppm. If the potential leak is actually a leak, it must be repaired. When the current NSPS were promulgated, we concluded that this procedure would reduce emissions by correcting major leaks.

After consideration of current operating practices, we concluded that repairing connector leaks as they are discovered is still the predominant method for reduction of VOC from connectors. However, during our review of the current requirements, we found a

number of Federal and state regulations that require additional efforts to reduce emissions, including regular monitoring and repair. Therefore, we evaluated options to achieve further emission reductions from connectors. Federal rules in which connector monitoring and repair of leaks above 500 ppm is required include the National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (HON) in 40 CFR part 63, subpart H, the National Emission Standards for Equipment Leaks—Control Level 2 Standards (Generic MACT) in 40 CFR part 63, subpart UU, the National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards (Ethylene NESHAP) in 40 CFR part 63, subpart YY, and the CAR. The National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (MON) in 40 CFR part 63, subpart FFFF also includes connector monitoring and repair of leaks above 500 ppm for new sources. In addition, the National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries (Refinery NESHAP) in 40 CFR part 63, subpart CC provides a higher maximum value for percent of leaking valves under which an owner or operator may use the skip period provisions if connector monitoring is included in the LDAR program. Based on this information, we felt that additional VOC control could be achieved by requiring connector monitoring and repair, but we needed additional information to determine whether connector monitoring is BDT. As a result, we requested comment on whether we should require periodic monitoring and repair of connectors to ensure that any leaks are corrected more quickly.

Upon consideration and review of the public comments, we evaluated whether the connector monitoring and repair provisions included in the Generic MACT are BDT for 40 CFR part 60, subparts VVa and GGGa. The Generic MACT provisions include a leak definition of 500 ppm and a monitoring frequency based on the number of connectors found to be leaking during the initial monitoring campaign.

For SOCMI, the estimated emission reductions achieved by connector monitoring and repair of leaks above 500 ppm are 230 tons of VOC per year at a cost of $2,500/ton. For petroleum refineries, the estimated emission reductions are 92 tons of VOC per year at a cost of $20,000/ton. The cost to achieve these emission reductions is considered to be reasonable for SOCMI sources but is not reasonable for petroleum refineries. Based on these impacts and consideration of current operating practices, we concluded that BDT for connectors at SOCMI sources is monitoring using EPA Method 21 or another approved alternative method at a frequency based on the number of connectors found leaking during initial monitoring and repair of leaks above 500 ppm. We concluded that BDT for connectors at petroleum refineries is equivalent to the current 40 CFR part 60, subpart GGG requirements. Therefore, we are promulgating connector monitoring and repair standards consistent with this determination for SOCMI sources subject to 40 CFR part 60, subpart VVa that will not apply to petroleum refinery sources subject to 40 CFR part 60, subpart GGGa.

B. How did EPA develop the new compliance requirements in 40 CFR part 60, subparts VVa and GGGa?

The recordkeeping requirements in the final amendments and new standards are authorized by section 114 of the CAA. Section 114 of the CAA allows EPA to require one-time, periodic, or continuous records for the purpose of determining if the owner or operator is in compliance with the standard. The recordkeeping requirements in the final amendments are the minimum necessary for affected facilities to demonstrate compliance and for EPA to enforce the rule. The recordkeeping requirements in the new standards include a few requirements in addition to the requirements in the final amendments. Most of these requirements are associated with new monitoring and repair requirements; other additional requirements are minimal and are necessary for EPA to enforce the rule. Further rationale for the new requirements is available below and in section IV.D of this preamble.

We have made significant changes to the proposed recordkeeping requirements as a result of the changes made to the scope and applicability of the standards. Because the final amendments to 40 CFR part 60, subparts VV and GGG include only clarifications to existing requirements, burden reducing provisions, and new compliance options, no changes or additions to the recordkeeping requirements in subpart VV or GGG are needed to document and/or enforce these amendments.

Sources subject to the new standards in 40 CFR part 60, subpart VVa are required to keep records of the same information required by 40 CFR part 60, subpart VV and certain additional information described below. Sources subject to 40 CFR part 60, subpart GGGa must comply with the requirements in subpart VVa except for the monitoring requirements applicable to connectors (and the associated recordkeeping requirements). Facilities subject to 40 CFR part 60, subparts DDD, GGG, or KKK are excluded from the requirement to comply with the recordkeeping provisions of subpart VVa because these subparts are not being amended to reference the new standards in subpart VVa.

The new recordkeeping provisions in 40 CFR part 60, subpart VVa require general identifying information for each monitoring activity required by the rule. As explained in the preamble to the proposed amendments (71 FR 65308, November 7, 2006), many facilities already record this information. This information requirement is consistent with other equipment leak standards and is needed by enforcement representatives to determine if the facility is complying with the standards. Specifically, EPA found that the results of the LDAR review demonstrated that the current requirements are not sufficient to verify that all monitoring requirements have been performed. For example, EPA enforcement initiatives have found missed monitoring (monitoring at an inappropriate interval, monitoring late, or not monitoring), understated leak rates, leaks not found or repaired, and monitoring records indicating that more equipment was monitored than physically possible given the time needed to meet EPA Method 21 requirements, among other issues. Since we cannot physically inspect every facility on the schedule required by the LDAR program, these additional records will provide safeguards that the program is being implemented as intended.

Other new recordkeeping requirements include specific information that is necessary to demonstrate compliance with the new monitoring provisions for connectors and pumps in light liquid service (weekly visual inspections for indications of dripping liquids). Records are also required to demonstrate compliance with the requirement for a calibration drift assessment at the end of each day and comparison of the results of the assessment with the most recent calibration results. We eliminated the proposed requirement to keep records of information on bypass lines because the new subpart does not include the requirement to monitor bypass lines. In addition, records of information related to the proposed initial monitoring requirement for pumps and valves

added to a process unit are not required because this monitoring requirement was revised since proposal, making additional records unnecessary.

We have reviewed the recordkeeping requirements and believe that these are the minimum needed to ensure compliance and that the requirements do not impose excessive costs. The costs of the recordkeeping requirements for 40 CFR part 60, subpart VVa, including the time required to enter and store additional information, are included in the information collection request (ICR) (see section V.B of this preamble).

C. How did EPA develop the final amendments to 40 CFR part 60, subparts VV and GGG?

The amendments to 40 CFR part 60, subpart VV are listed in Table 1 of this preamble. Most of the technical corrections for 40 CFR part 60, subparts VV and GGG were discussed in the preamble to the proposed amendments (71 FR 65302, November 7, 2006). Other technical corrections and amendments are the result of public comments, and these are discussed in detail in the responses to the applicable comments. For each amendment that is more significant than an editorial or grammatical correction, Table 1 to this preamble includes a reference to the rule language and a reference to the location of the detailed explanation.

TABLE 1.—SUMMARY OF FINAL AMENDMENTS TO 40 CFR PART 60, SUBPART VV AND RATIONALE FOR CLARIFICATIONS, ADDITIONAL COMPLIANCE OPTIONS, AND TECHNICAL CORRECTIONS

Citation	Explanation or location of explanation[1]	Amendment
Heading		Revised to clarify applicability of subpart.
60.480(b)		Revised to identify applicability to affected facilities that were constructed, reconstructed, or modified after January 5, 1981 and on or before November 7, 2006.
60.480(d)(2)		Clarified that design capacity refers to a chemical listed in 40 CFR 60.489.
60.480(d)(2)–(5)		Revised reference to nonexistent 40 CFR 60.482 to refer to 40 CFR 60.482–1 through 60.482–10.
60.480(e)(1)		Renumbered paragraph (e)(1) as (e)(1)(i) and paragraph (e)(2) as (e)(1)(ii); changed reference to paragraph (e)(2) to (e)(1)(ii).
60.480(e)(2)		Added paragraph that allows owners or operators to comply with 40 CFR part 60, subpart VVa as an alternative to 40 CFR part 60, subpart VV.
60.481	71 FR 65308, column 3	Corrected editorial errors in definition of ''Capital expenditures.''
60.481	71 FR 65307, column 2 and section 5.4.3 of RTC.	Added new definition for ''Closed-loop system.''
60.481	71 FR 65307, column 2 and section 5.4.3 of RTC.	Added new definition for ''Closed-purge system.''
60.481	Section 5.3.2 of RTC	Revised definition of ''Connector.''
60.481	Added missing word ''the'' before the word ''atmosphere'' and removed the word ''rapid''.	Revised definition of ''First attempt at repair.''
60.481	71 FR 65308, column 3 and updated the mailing address for ASME.	Revised definition of ''Hard piping.''
60.481	Section IV.A.2 of this preamble	Revised definition of ''Process unit.''
60.481	Section 5.9.3 of RTC	Revised definition of ''Process unit shutdown.''
60.481	71 FR 65308, column 1	Revised definition of ''Repaired.''
60.481	Section 3.2.1 of RTC	Added new definition for ''Storage vessel.''
60.481	71 FR 65307, column 3	Added new definition for ''Transfer rack.''
60.482–1(e)	Section 3.3 of RTC	Added paragraph (e) to address equipment in service less than 300 hours per year.
60.482–1(f)	71 FR 65304, column 3 and sections 5.6.1 and 5.6.2 of RTC.	Added paragraph (f) that allows less frequent monitoring of pumps and valves on batch process units that operate less than 365 days per year.
60.482–1(g)	Section IV.A.2 of this preamble	Added paragraph that clarifies inclusion of shared tanks in a process unit subject to this subpart.
60.482–2(a)(1)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for pumps that begin operation in light liquid service after the initial startup date for the process unit.
60.482–2(a)(2)		Added reference to 40 CFR 60.482–1(f) as an exception to the requirement for weekly visual inspections of pumps in light liquid service.
60.482–2(b)(2)	71 FR 65304, column 2, 71 FR 65306, column 1, and section 5.2.2 of RTC.	Added monitoring and repair requirements if weekly visual inspection of pumps in light liquid service indicates liquids dripping from pump seal.
60.482–2(c)(2)	71 FR 65307, column 1	Added examples of first attempt at repair practices for pumps in light liquid service.
60.482–2(d)		Editorial correction and clarification to address renumbering of paragraphs (d)(1) through (6).
60.482–2(d)(1)(ii)		Replaced first word ''Equipment'' with ''Equipped.''
60.482–2(d)(4)(i)		Renumbered paragraph (d)(4) as (d)(4)(i).
60.482–2(d)(4)(ii)	71 FR 65304, column 2, 71 FR 65306, column 1, and section 5.2.2 of RTC.	Added monitoring and repair requirements if weekly visual inspection of a pump equipped with dual mechanical seals indicates liquids dripping from pump seal.
60.482–2(d)(5)(i)		Removed ''and'' from end of sentence.

TABLE 1.—SUMMARY OF FINAL AMENDMENTS TO 40 CFR PART 60, SUBPART VV AND RATIONALE FOR CLARIFICATIONS, ADDITIONAL COMPLIANCE OPTIONS, AND TECHNICAL CORRECTIONS—Continued

Citation	Explanation or location of explanation[1]	Amendment
60.482–2(d)(5)(iii)		Added paragraph to specify how a leak is detected.
60.482–2(d)(6)	71 FR 65304, column 2 and 71 FR 65306, column 1.	Revised to clarify procedure and time allowed for repair of leaks.
60.482–2(e)		Revised to add ''s'' to the end of ''no detectable emission.''
60.482–3(a)	Section 5.3.5 of RTC	Added reference to exemption in 40 CFR 60.482–3(j).
60.482–3(j)	71 FR 65308, column 3	Editorial clarification of section and paragraph references.
60.482–5(a) and (b)	71 FR 65307, column 2 and section 5.3.5 of RTC.	Rearranged paragraphs within these two paragraphs and made editorial corrections to provide clarity.
60.482–5(b)(2)	71 FR 65307, column 2, and section 5.4.3 of RTC.	Added provision that containers part of a closed-purge system must be covered or closed when not being filled or emptied.
60.482–5(b)(3)	Section 5.4.1 of RTC	Added provision that gases remaining in the tubing or other apparatus once the closed-purge system valve(s) and sample container valve(s) are closed are not required to be collected or captured.
60.482–5(b)(4)–(b)(4)(iv)(A)–(C)	Rearranged paragraph numbering and made a few editorial clarifications.	Same as current paragraph (b)(4) except for editorial clarifications.
60.482–5(b)(4)(iv)(D)	Section 5.4.2 of RTC	Added provision for use of a waste management unit meeting the requirements of 40 CFR 61.348(a).
60.482–5(b)(4)(iv)(E)	Section 5.4.2 of RTC	Added provision for use of a device used to burn off-specification used fuel oil in accordance with 40 CFR part 279, subpart G.
60.482–6(a)(1)	Section 5.3.5 of RTC	Added reference to exemptions in 40 CFR 60.482–6(d) and (e).
60.482–7(a)(1)	Corrected section designations	Clarified current paragraph (a) to specify that valves must be monitored monthly except as provided in 40 CFR 60.482–7(f), (g), and (h); 40 CFR 60.482–1(c) and (e); and 40 CFR 60.483–1 and 2.
60.482–7(a)(2)(i) and (ii)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for valves that begin operation in light liquid service after the initial startup date for the process unit.
60.482–7(c)(1)(i)		Paragraph (c)(1) redesignated as paragraph (c)(1)(i).
60.482–7(c)(1)(ii)	71 FR 65307, column 3 through 71 FR 65308, column 1, and section 5.1.2 of RTC.	Added paragraph to allow an owner or operator to subdivide valves in a process unit.
60.482–8(a)(2)	Section 5.7 of RTC	Added clarification that audio visual olfactory indications of potential leaks should be eliminated within 5 calendar days of detection.
60.482–8(d)	71 FR 65307, column 1	Revised to require that first attempt at repair of pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and connectors must include best practices under 40 CFR 60.482–2(c)(2) and 40 CFR 60.482–7(e).
60.482–9(a)	Section 5.9.3 of RTC	Clarified that for repair that occurs during a process unit shutdown, monitoring to verify that repair must occur within 15 days after startup of the process unit.
60.482–9(f)	Section 5.9.3 of RTC	Added new paragraph for a leaking pump or valve for which a delay in repair is allowed.
60.483–1(d) and 60.483–2(b)(5)		Added reference to new 40 CFR 60.485(h) that provides more detailed explanation for calculating the percent of valves leaking.
60.483–2(a)(7)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for valves that begin operation in light liquid service after the initial startup date for the process unit.
60.483–2(b)(7)		Added paragraph to specify that a new valve must be monitored according to 40 CFR 60.482–7(a)(2)(i) or (ii) before the provisions of 40 CFR 60.483–2 can be applied to the valve.
60.484(a)	71 FR 65308, column 3	Editorial correction.
60.484(b)(2)		Editorial clarification.
60.485(b)		Revised reference to nonexistent 40 CFR 60.482 to refer to 40 CFR 60.482–1 through 40 CFR 60.482–10.
60.485(e)	71 FR 65308	Clarified that the requirements apply to a piece of equipment.
60.485(e)(1) and (2)	Section 6.3 of RTC	Clarified to specify that light liquids are organic compounds.
60.485(g)(4)	Corrected exponents in equation	Corrected equation for the net heating value of the gas being combusted in a flare.
60.485(g)(5)		Added ASTM D6420–99 as an alternative to EPA Method 18.
60.485(h)	Section 5.1.4 of RTC	Added equation and clarifications for calculating percent of valves leaking.
60.486(e)(2)(ii)	Section 7.4 of RTC	Revised to allow an alternative to requiring a signature for the list of equipment with no detectable emissions.
60.486(e)(6)	Section 3.3 of RTC	Added recordkeeping requirements for equipment in VOC service less than 300 hours per year.
60.487(c)(2)(i), 60.487(c)(2)(iii), 60.487(c)(2)(iv).	These changes are related to rearranging of paragraphs in 60.482–2.	Corrected references to specific sections and other editorial corrections.

[1] RTC refers to *Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry and Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries. Background Information for Final Standards. Summary of Public Comments and Responses.* See Docket ID No. EPA–HQ–OAR–2006–0699.

IV. Summary of Comments and Responses

We proposed amendments to 40 CFR part 60, subpart VV and 40 CFR part 60, subpart GGG on November 7, 2006 (71 FR 65302). We published a NODA regarding OEL on July 9, 2007 (72 FR 37157). A total of 28 comment letters were received during the comment periods for the two notices. In response to these public comments, several changes were made in developing these final amendments and new standards. The major comments and our responses are summarized in the following sections. A summary of the remainder of the comments received during the comment period and responses thereto can be found in the docket for the final amendments and new standards (EPA–OAR–HQ–2006–0699).

A. Applicability

1. Affected Sources Under the Current NSPS

Comment: Numerous commenters objected to the proposed application of substantive new requirements to affected sources that became subject to 40 CFR part 60, subpart VV (or any of the subparts that reference subpart VV) on or before November 7, 2006 (hereafter referred to as ''subpart VV sources''). Proposed provisions that these commenters considered to be substantive are: (1) Changes to the definition of process unit; (2) annual EPA Method 21 monitoring of OEL; (3) bypass monitoring requirements for closed vent systems to control devices; (4) calibration drift assessments; (5) initial monitoring requirements for pumps and valves; and (6) maintaining records of all monitoring results. The commenters argued that applying the new provisions to subpart VV sources is unlawful.

To address the issue of compliance dates, several commenters recommended that EPA amend 40 CFR part 60, subpart VV so that it applies only to existing sources and develop a new 40 CFR part 60, subpart VVa that applies to affected sources that commence construction, reconstruction, or modification after November 7, 2006.

In contrast, two commenters urged EPA to apply the proposed requirements to all existing SOCMI and refinery process units, and a third commenter recommended applying the proposed leak definitions for pumps and valves to all SOCMI and refinery affected sources. All of these commenters noted that existing facilities are more likely than new sources to have problems with leaks and, thus, should receive extra scrutiny.

Response: In this action, EPA has decided to include any new requirements in a new 40 CFR part 60, subpart VVa, consistent with the commenter's suggestions. The new standards in subpart VVa include lower leak definitions for pumps (2,000 ppm) and valves (500 ppm), monitoring of connectors, a calibration drift assessment, and expanded recordkeeping requirements. The proposed requirement to monitor bypass lines has not been included in the new standards because few facilities capture and vent equipment leak emissions to a control device. Additionally, most control devices would be subject to other standards. The proposed requirement to monitor OEL has not been included in the new standards because this requirement has been determined to not be cost-effective. The cost-effectiveness for SOCMI was found to be $3,800/ton for 25 tons/yr of VOC emission reductions. For petroleum refineries, the cost-effectiveness was found to be $14,700/ton for 2.4 tons/yr of VOC emission reductions. Taking the low emission reductions into consideration, the Agency has determined that monitoring OEL is not BDT. As discussed in sections IV.B.1 and IV.A.2 of this preamble, the initial monitoring requirements for new pumps and valves and the changes to the definition of ''process unit'' are not new standards, and these changes are retained in the final amendments to 40 CFR part 60, subpart VV as well as being included in the new subpart VVa.

Instead of referencing 40 CFR part 60, subpart VVa from 40 CFR part 60, subpart GGG, we decided to create a new 40 CFR part 60, subpart GGGa that applies to new petroleum refining affected sources. This new subpart GGGa references all of the new standards in subpart VVa except for the monitoring requirements for connectors. Reasons for the differences in standards between subparts VVa and GGGa are described elsewhere in this preamble.

Sources subject to 40 CFR part 60, subpart DDD and 40 CFR part 60, subpart KKK, and sources subject to the Refinery NESHAP (40 CFR part 63, subpart CC), but not subject to 40 CFR part 60, subparts VV or GGG, are not required to comply with 40 CFR part 60, subpart VVa at this time.

While we understand there is a concern that existing sources are more likely to leak, there is no provision in section 111 of the CAA that allows us to retroactively apply new standards to sources already subject to the NSPS. EPA agrees with the statements made by the commenters that relate to the application of new requirements under NSPS to existing sources. Section 111 of the CAA does state that NSPS will apply only to new, reconstructed, or modified sources after the date of proposal. The authority to regulate existing sources under section 111(d) of the CAA does not authorize EPA to regulate criteria pollutants or precursors to such pollutants. Therefore, we have not included any new requirements for existing sources in the final amendments to 40 CFR part 60, subpart VV and subpart GGG. These requirements will apply only to sources that commence construction, reconstruction, or modification after the November 7, 2006 proposal date.

2. Definition of Process Unit

Comment: Numerous commenters expressed concern that the revised definition of process unit is inconsistent with EPA's original intent when 40 CFR part 60, subpart VV was proposed (i.e., it expands the scope), that it complicates compliance, or that it creates additional confusion. One commenter stated that under the existing definition, a component is part of a process unit based on its function, not whether it is classified as a specific type of equipment. The commenter indicated that since 1981, sources and their regulators have decided what constitutes a process unit based on what equipment serves the functions described in the definition, and this process unit may be different from process units under other rules.

After reading the preamble discussion of the proposed change, one commenter expressed concern that the proposed definition inadvertently includes valves and other equipment on storage tanks. Other commenters objected to the inclusion of all feed, intermediate, and product storage vessels and transfer operations in the definition because the following discussion from the original rulemaking notice for 40 CFR part 60, subpart VV (46 FR 1139, January 5, 1981) makes it clear that EPA's original intent was to include storage in the process unit only if it is within the battery limits of the process:

''A process unit is specifically defined as equipment assembled to produce one or more of the chemicals listed in proposed appendix E which can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the final product. A process unit includes intermediate storage or surge tanks and all fluid transport equipment connecting reaction, separation, and purification devices. All equipment within the battery limits is included. However,

offsite fluid transport and storage facilities are excluded.''

Several commenters described ways the proposed change could complicate compliance. For example, two commenters indicated that it would increase the difficulty of tracking equipment, process units, and applicable requirements at refineries where the storage and transfer areas are consolidated into ''logistical process units'' that support numerous process units, particularly when storage tanks are shared by multiple process units. One commenter added that it may also either restrict the ability of a facility to use its tanks as needed, because they will have been forced into an arbitrary association with a given unit, or create a useless recordkeeping exercise each time a tank switches contents or services a different process. To avoid immediate compliance problems for affected sources that are currently subject to 40 CFR part 60, subpart VV, a commenter requested that existing facilities be allowed 180 days after promulgation of the amendments so that they will have time to include the additional equipment in the applicable LDAR programs. Commenters also noted that the rule should clarify how to assign storage vessels and transfer racks that are shared by multiple processes; they suggested using language in the HON and the Refinery NESHAP as a guide. One commenter stated that EPA should clarify that a compressor is still a separate affected facility from the group of equipment in a refinery process unit under 40 CFR part 60, subpart GGG.

Response: The first sentence in the definition of ''process unit'' in the final amendments and new standards includes the term ''components'' as in the existing definition rather than ''equipment'' as in the proposed amendments. This correction distinguishes major process vessels such as reactors and distillation units (i.e., ''components'') from pieces of equipment, as defined in the rule, that are subject to the LDAR standards. In addition, the last sentence of the proposed definition has been replaced to reference ''equipment'' as it is defined in the applicable subpart. This change should address concerns that compressors at petroleum refineries are separate affected sources. Otherwise, there are no differences between the proposed and final definitions.

The amended definition of process unit clarifies EPA's original intent and is consistent with the language provided by the commenters from the January 1981 rulemaking. It is clear from the 1981 rulemaking that all equipment that is located within the battery limits is included as part of the process unit. Likewise, there is no question that any fluid transport and storage facilities located outside of the facility property are not included. However, the 1981 language also states that a process unit includes storage tanks and all fluid transport equipment. There is no specification that these components are only included if within the battery limits. There has been confusion in the past regarding the inclusion of components outside of the battery limits but within the property of the facility. To clarify this issue, EPA previously issued formal guidance (see April 6, 1994 letter from John Rasnic to Raymond Hiley in Docket ID No. EPA-HQ–OAR–2006–0699).

We agree that the determination of whether a particular tank is a storage tank, feed tank, or intermediate tank and part of a process unit must be done on a site-specific basis, dependent on how the tank functions within a particular plant site. The physical proximity of the storage tank to the other processing equipment within a process unit is not a sole determinate in establishing whether a storage tank is part of the process or not.

The final amendments and new standards include provisions for assigning a shared storage tank to a specific process unit for the purposes of an LDAR program. The owner or operator will need to determine what process units the storage tank is associated with. They will then determine which process unit, or combination of units subject to the same subpart, has the greatest annual quantity of stored materials in that tank. The subpart that the process unit (or combination of units subject to the same subpart) associated with the greatest use of that tank is subject to will be the applicable subpart for the tank. The process unit, which is subject to the same subpart as the tank, with the greatest annual quantity of stored materials in that tank will be the process unit the tank is assigned to. If a tank is shared equally between two process units that are subject to 40 CFR part 60 standards, the process unit with the most stringent requirements will be the unit the tank is assigned to. For example, if the predominant use of a storage tank is to service a process unit subject to 40 CFR part 60, subpart VV, that storage tank is a part of that process unit and subject to subpart VV and the equipment must be monitored at a leak definition of 10,000 ppm.

Comment: Two commenters wondered how the change in the definition of ''process unit'' would affect modification and reconstruction determinations. One commenter expressed concern that it will make it easier for an owner or operator to add new equipment to an existing process unit without triggering the threshold that would make the process unit a new affected source. The second commenter noted that including feed tanks in the definition changes the basis for the modification and reconstruction cost test and asked how changes that have already occurred should be handled in this determination.

Response: Since the amended definition is a clarification of our original intent with respect to applicability of 40 CFR part 60, subpart VV to equipment on storage tanks and lines between storage tanks and processing equipment, there will be no impact on modification or reconstruction determinations. If a facility believes that they have performed a previous modification or reconstruction determination in error, they should contact their delegated authority.

B. Standards

1. Initial Monitoring of Pumps and Valves

Comment: Numerous commenters objected to the proposed clarifications for the initial monitoring of pumps and valves that are installed after the startup of the process unit. Several commenters stated that the proposed provisions are significant new requirements and cannot be finalized without demonstrating that they represent BDT and giving the public a chance to comment on the supporting analyses. Two commenters indicated that they are unaware of any SOCMI facilities that routinely monitor new pumps and valves within 1 month of startup, and the supporting documentation for the proposal contains no data from SOCMI sources. Several commenters requested that EPA allow at least 90 or 180 days because complying within 1 month would be burdensome, particularly for facilities that use third party contracting for monitoring; 1 month is not enough time to integrate new equipment into the monitoring program; 40 CFR 60.8 of the General Provisions provides 180 days for performance tests; and EPA has not explicitly stated how monitoring within 1 month will reduce emissions. Two commenters noted that EPA's justification of the requirement for valves is that it is needed to ensure that the valve does not leak until its first quarterly or annual monitoring, but no data were presented to show such leakage occurs or is a problem. The

commenters also requested that when establishing the final requirement for initial monitoring of pumps and valves, the timeframe be given in days, not months.

In contrast with the above comments, three commenters supported the proposed language or more stringent requirements. One of these commenters recommended monitoring new pumps within 1 month after installation to minimize the time period for potential leaks. A second commenter recommended that monitoring be required even sooner after installation. This commenter also questioned why a clarification of the requirements for pumps was needed because the preamble to the proposed amendments did not explain how industry currently handles new pumps and why that practice is a problem. This commenter also objected to the second sentence in 40 CFR 60.482–7(a)(2) because it means valves added to a process would not have to be monitored for 2 consecutive months before implementing skip monitoring, which is less stringent than the requirements for valves in an entirely new process.

Response: The language pertaining to the initial monitoring of new pumps and valves was added to the final amendments and new standards to clarify how new equipment should be handled in the existing monitoring schedule, but these are not new requirements. Under the current rule, pumps are to be monitored monthly whether they are newly installed or installed prior to the process unit becoming an affected source (40 CFR 60.482–2(a)(1)). It is unclear to us how a facility is complying with the requirements for pumps if they are not being monitored monthly. Also under the current rule, all new valves are to be monitored monthly (i.e., base period) until two consecutive monthly readings are found below the applicable leak definition, at which point the valve may be monitored quarterly until a subsequent leak is found (40 CFR 60.482–7(a)). Finding of a subsequent leak reverts the monitoring back to monthly until two consecutive monthly readings below the applicable leak definition is reestablished. The current rule also has an alternative standard for valves at 40 CFR 60.483–2 which allows for longer ''skip'' periods based on continued performance. Again, we are uncertain that a facility is complying with the requirements for these valves if they are not monitoring new valves within the first month of operation.

However, to provide operational flexibility, we have decided to add an option for newly installed valves in the final amendments and new standards. If a new valve is placed into service during a skip period, the source has the option to either monitor the valve on the monthly schedule and establish the skip period for that valve, or count the valve as a leaker in the percent leaking calculation. If the result of the percent leaking calculation remains below 2.0 percent with the new valve counted as a leaker, the owner or operator must monitor the new valve by the next scheduled skip period or within 90 days, whichever comes first. We have stated the timeframe for these requirements in days instead of months in the final amendments and new standards (30 days for pumps and either 30 or 90 days for valves, depending on whether the owner or operator is complying with the skip monitoring option).

Comment: Three commenters requested clarification of the applicability of the proposed initial monitoring provision. Two commenters stated that the term ''placed in service'' clearly implies that pumps and valves should follow the initial monitoring schedule after they are initially installed. However, the term ''placed in service'' also implies that previously installed pumps and valves should be monitored after they have been placed back into service after maintenance, turnarounds, and repairs. Both commenters recommended changes to clarify that only newly installed or rebuilt pumps and valves should be monitored following the schedule for initial monitoring.

Response: The initial monitoring requirement is for pumps and valves that come into VOC service through a process expansion or replacement not associated with a repair (e.g., preventative maintenance). These pumps and valves may be newly purchased or they may be equipment that was previously in service elsewhere in the process unit or facility. A newly purchased, rebuilt, repaired, or remanufactured pump or valve installed to repair a leaking pump or valve is not subject to the initial monitoring requirements. Instead, the pump or valve should be monitored to verify that there is no longer a leak (as required in the definition of ''repaired'') and may be subsequently monitored according to the schedule that applied to the previously leaking pump or valve.

To further clarify this issue, we have revised 40 CFR 60.482–2(a)(1), 40 CFR 60.482–7(a)(2), 40 CFR 60.483–2(b)(7), 40 CFR 60.482–2a(a)(1), 40 CFR 60.482–7a(a)(2), and 40 CFR 60.483–2a(b)(7).

2. Weekly Pump Inspections

Comment: Numerous commenters addressed the proposed changes to the requirements for weekly inspections of pumps. One commenter supported the proposed changes, including the changes to 40 CFR 60.482–2(b)(2)(ii), which states that if a visible liquid leak is found, it may be repaired by removing the visible indication of the leak. Based on the commenter's experience, a visible leak does not always indicate a regulatory leak. Another commenter agreed with the clarification allowing facilities to determine if a leak is emitting VOC using EPA Method 21 because it will help to focus repairs on pumps leaking hydrocarbons.

Three commenters did not support the proposed changes to the weekly inspection requirements. Two of these commenters disagreed with EPA's conclusion that the existing requirements are overly burdensome. According to one commenter, an operator should be required to make a showing of an undue burden; simply stating that an operator may have to conduct more inspections and repair more leaks than absolutely necessary does not demonstrate an undue burden. Two commenters noted that eliminating evidence of liquids dripping does not guarantee that the pump is no longer leaking VOC. As a result, these two commenters stated that monitoring should be required after eliminating evidence of liquids dripping to verify that repair was successful. Even if liquids dripping are not process fluid, one commenter noted that the liquid is probably either seal barrier fluids or condensate from a pump jacket used for temperature control. Regardless of the cause or fluid, one commenter noted that any liquid dripping may be a first sign of a potential maintenance problem that is best addressed as soon as possible as a matter of good operational practice as well as good environmental practice.

Response: The aim of the LDAR program is to find and repair leaks of VOC. In some instances, the liquids found dripping from pumps are not VOC-containing liquids or otherwise would not meet the leak definition. In these cases, the pump would not be required to be repaired under the LDAR program. Adding the option to monitor allows the owner or operator to determine if the liquids dripping constitute a VOC leak, thus focusing their efforts on reducing VOC emissions. If the owner or operator chooses not to monitor the pump to determine if the liquids dripping are a VOC leak, the liquids dripping from the pump are

classified as a VOC leak. The leak must be repaired by eliminating indications of liquids dripping, and the appropriate recordkeeping and reporting requirements for leaks apply to that pump. We agree with the commenter that persistent liquids dripping may indicate an operation problem that should be addressed by maintenance. If indications of liquids dripping are noted for one pump during multiple weekly inspections, we encourage facilities to ensure that the pump is operating properly. We do not agree that more frequent EPA Method 21 monitoring is necessary because pumps are currently monitored on a monthly basis and the additional monitoring would not result in substantial emission reductions.

3. Connectors

Comment: In response to our request for comments regarding whether connector monitoring should be required, three commenters expressed support for it, and nine commenters opposed it. Supporters argued that significant reductions could be achieved at a reasonable cost. Opponents argued that the impacts analysis overstated the emission reductions and underestimated the costs. According to two of the opponents, EPA did not require connector monitoring in the MON (40 CFR part 63, subpart FFFF) because the cost was determined to be unreasonable. One commenter indicated that monitoring as proposed is not worth the effort because most connectors are adjacent to valves, and these connectors are investigated and monitored when valve monitoring results in abnormal readings.

Six commenters objected to some of the assumptions we used to estimate equipment leak emissions. Some of these commenters stated that our emission reduction estimates were high because we used assumed leak frequencies and leak rates from *Protocol for Equipment Leak Emission Estimates* (EPA–453/R–95–017, November 1995) (the Protocol document) rather than actual field data. One commenter added that these data often predict emissions an order of magnitude higher than the actual emissions. Another commenter submitted a report that concluded there is no statistical difference in average leak rates between initial and subsequent monitoring at HON and MON units. This commenter also questioned the assumption that all leaking connectors would be successfully repaired after each monitoring cycle. Several commenters objected to estimating emissions based on leak rates equal to 170 percent of actual observed leak rates. One commenter noted that one refinery monitored more than 22,000 connectors and found only four leaking at greater than 1,000 ppm. Less than 0.5 percent of the connectors in process units subject to the HON at another refinery were leaking at greater than 500 ppm.

Four commenters objected to various elements in the cost estimates. These commenters noted that more connectors than valves are difficult to monitor, and the cost analysis did not include the cost for the additional labor and equipment needed to monitor these connectors. One commenter stated that the unit cost for monitoring connectors should be more than $1.50 per connector because the time required to monitor a connector is longer than for other types of equipment. The increased monitoring time is the result of several factors: (1) The distance that must be traversed per component is greater; (2) connectors often are in hard-to-reach locations, requiring the operator to squeeze through small spaces, often having to remove the monitor backpack; and (3) connectors tend to be spread out and are hard to find. In addition, this commenter noted that recordkeeping for connectors is more burdensome and complicated than for valves. Connectors are not typically shown on process and instrumentation drawings, making them difficult to find. The commenter stated that our estimate of 10 hours per year to complete administrative tasks and reports associated just with monitoring connectors is inadequate. Finally, the commenter noted that our cost estimates omit the cost of a data collection system or monitoring device rental; the commenter estimated these costs to be $14,500 for data collection systems and $135 per day for monitor rental. The commenter stated that even if a facility has a data collection system, additional licenses are needed to add connectors. Another commenter stated that rationale for requiring monitoring at SOCMI facilities does not apply to natural gas processing plants; thus, this commenter requested that an impact analysis be performed to address natural gas processing plants before making that industry subject to connector monitoring.

In contrast with the above comments, three commenters were in favor of adding connector monitoring to the rule. One commenter suggested that connectors be monitored annually or biennially because they have significant leak potential that would go undetected without monitoring. Regardless of the uncertainties in the leak rates and emissions factors, another commenter stated that connector monitoring should be required because emissions reductions can be achieved at a relatively low cost. The third commenter supported a requirement to monitor connectors at SOCMI sources because it is technically feasible, our impacts analysis shows it is economically feasible, and it would achieve greater reductions than the proposed amendments for pumps and valves. According to this commenter, more accurate emissions data in the impacts analysis is unnecessary because emissions inventories based on monitoring data typically show emissions that are higher than the emissions estimated using engineering calculations and emission factors, which would only strengthen the argument for monitoring. This commenter also argued that refineries should be required to monitor connectors because such monitoring is technically feasible, it is already required for some refineries in Texas and California, and our impacts analysis showed connectors at refineries were more likely to leak than connectors at SOCMI sources.

Response: Both the HON and MON regulations are based on emissions of hazardous air pollutants (HAP). NSPS are based on VOC emissions (both HAP and non-HAP). When calculating the cost-effectiveness for NSPS, there are more possible emission points and a higher percentage of regulated pollutants in the emissions because the analysis is not based only on HAP emissions. This results in a different conclusion for cost-effectiveness than in the HON or MON.

The commenter's claim that we used the leak frequencies and leak rates in the Protocol document for the SOCMI analysis is incorrect. We used the same initial leak frequency (0.36 percent) as in the MON analysis. We also started with the same initial leak rate (0.000186 kilogram (kg)/hour (hr)/connector), but we then escalated it in the same manner that leak rates for pumps and valves were escalated. The leak frequencies and leak rates in the MON analysis were based on industry-supplied data for almost 165,000 connectors. We decided not to use the leak rate data in the report supplied by one of the commenters because it contains a smaller data set (29,000 connectors), and it is possible that these data are also included in the larger data set. However, our assumption that the subsequent leak frequency is the same as the initial leak frequency is consistent with the conclusion in the report cited by the commenter.

The new standards in 40 CFR part 60, subpart VVa include connector monitoring because we have determined

that it is cost-effective at SOCMI sources. The specific monitoring provisions are the same as in the Generic MACT. However, we have determined that connector monitoring is not cost-effective for petroleum refineries. Therefore, an exemption from the provisions for connector monitoring has been included in 40 CFR part 60, subpart GGGa. At this time, we are not reviewing 40 CFR part 60, subpart KKK; therefore, no cost analysis has been performed on connector monitoring for these sources, and natural gas processing plants subject to 40 CFR part 60, subpart KKK are not subject to the connector monitoring requirements in subpart VVa.

After reviewing the comments, we revised the impacts analyses to include two of the suggested changes to the cost estimates. First, we corrected an error, which increased the estimated time for reporting and administrative activities related to connectors from 10 hr/year (yr) to 50 hr/yr. Second, although we are not aware that monitoring contractors charge a higher fee for connectors than for other equipment, we accept the commenter's suggested fee of $2.50/connector because the $1.50/connector that we used in the original analysis may be closer to the low end of the range than the average. We disagree with the other changes suggested by the commenters. Details of the revised impacts analysis, including rationale for not making the suggested changes, are provided in the docket (Docket ID No. EPA–HQ–OAR–2006–0699).

C. Test Methods and Procedures

Comment: Two commenters supported the requirement to conduct calibration drift assessments and remonitor when the assessment shows a negative drift of more than 10 percent. Other commenters acknowledged that a drift check is a good practice or a useful quality assurance/quality control (QA/QC) tool, and one commenter agreed with EPA's rationale for requiring drift checks.

On the other hand, four commenters opposed the drift check requirement, saying it is unnecessary and provides no environmental benefit. One of these commenters added that monitoring instruments such as the Foxboro TVA 1000 FID/PID or Foxboro TVA 1000B are quite stable over a 24-hour period, and EPA has not presented data or an analysis showing the need for calibration assessments. A second commenter noted that instruments typically drift in a positive direction. A third commenter argued that a drift check and re-monitoring is a futile effort to make the equipment leak monitoring method more accurate than was originally intended and than the instruments can achieve because of the following: (1) The Foxboro TVA 1000B instrument accuracy is only ±25 percent for readings between 1 and 10,000 parts per million by volume (ppmv); (2) a response factor as high as 10 is allowed for compounds of interest; (3) the 10 percent drift limit is inconsistent with the level of the instrument's accuracy allowed by EPA Method 21; and (4) leaking equipment does not emit a constant concentration. In addition, this commenter noted that drift checks conducted to satisfy consent decrees have shown only about 10 percent of instruments drift more than 10 percent every 2 to 3 weeks, and the release of calibration gases would be considered a negative environmental impact.

Response: We are removing the requirement for a post-test calibration drift assessment from the final amendments but retaining the requirement for the new subparts. Post-test calibration drift assessments constitute good practice and are a useful QA/QC tool to validate the proper operation of the monitor during the monitoring period and, hence, the measurement data. The requirement for a calibration drift assessment is not an effort to make the method more accurate than was originally intended, but is intended as an additional quality assurance check.

Comment: Numerous commenters considered the proposed re-monitoring requirement to be excessive. Instead of re-monitoring when instrument readings are greater than 20 percent of the applicable leak definition, two commenters suggested changing the threshold to 75 or 80 percent. Another commenter suggested using a percentage equal to 100 minus the percent of negative drift. If re-monitoring is required when negative drift occurs, two commenters stated that an owner or operator should also have the option of re-monitoring when positive drift occurs and reclassifying leakers as nonleakers. One of these commenters also suggested four additional changes: (1) Because monitoring shifts may vary, require the assessment at the end of each day rather than the end of each monitoring shift; (2) allow an unlimited number of calibration drift assessments per day; (3) determine drift relative to the most recent calibration value rather than the initial value for the day; and (4) specify that a drift assessment is not required after re-monitoring.

Response: We agree with the suggestion to establish the retest criterion at the percentage equal to 100 minus the percent of negative drift and are modifying the requirement accordingly. We also agree with the commenter's suggestion that an owner or operator should have the option of re-monitoring when positive drift occurs and reclassifying leakers as non-leakers when the re-monitoring after recalibration due to positive drift indicates the previously identified leak is below the leak definition concentration. We agree that monitoring shifts may vary, and the new standards require the assessment at the end of each day rather than the end of each monitoring shift. The new standards allow an unlimited number of calibration drift assessments per day, and we have clarified that the drift assessment is determined relative to the most recent calibration value rather than the initial value for the day. We do not agree that a drift assessment is not required after remonitoring and have not made this change to the new standards.

D. Recordkeeping and Reporting

Comment: One commenter supported the proposed requirement to keep records of all monitoring results because more and better data can only help facility owners and operators efficiently and effectively address the problem of fugitive emissions. Another commenter stated that records of weekly pump inspections are needed to make the inspection requirement enforceable. On the other hand, many commenters either opposed or urged us to reconsider the need for one or more of the following proposed recordkeeping requirements: (1) Results of all monitoring events; (2) time of each monitoring event; (3) information related to the proposed initial monitoring requirement for pumps and valves added to a process unit; (4) results of the proposed monitoring of OEL; (5) information related to the proposed requirement to monitor bypass lines; (6) results of calibration drift checks; and (7) results of weekly pump inspections.

Several commenters stated that the additional recordkeeping would be burdensome and either would not improve the rule's effectiveness or is excessive relative to any minimal improvement in performance. In addition, one commenter stated that the proposal preamble did not adequately explain how we estimated the cost of the additional recordkeeping and reporting for SOCMI sources to be $369,000/yr, and another stated that the proposal preamble did not explain why the current monitoring requirements are not sufficient to verify that monitoring was performed. According to one commenter, recording the time of

monitoring has hindered many programs and reduced productivity, and the additional records will generate an administrative backlog of data and create issues with storage and accessibility. Although this commenter agreed that the proposed records can be useful in verifying quality control of the LDAR program, the commenter asserted that a more cost-effective way to achieve quality control is to physically monitor the program. Furthermore, this commenter stated that by requiring the records, we are specifying the means by which a facility must implement the LDAR program rather than outlining the performance standard. Another commenter expressed concern that the additional recordkeeping exposes facilities to the potential of incurring deviations for records that serve no purpose.

Response: As stated in section III.B of this preamble, the recordkeeping requirements in the final amendments and new standards are authorized by section 114 of the CAA. We have made significant changes to the proposed recordkeeping requirements as a result of the changes made to the scope and applicability of the standards. Because the final amendments to 40 CFR part 60, subparts VV and GGG include only clarifications to existing requirements, burden reducing provisions, and new compliance options, no changes or additions to the recordkeeping requirements in subpart VV or GGG are needed to document and/or enforce these amendments. The recordkeeping requirements apply to the new standards (40 CFR part 60, subparts VVa and GGGa), as proposed, with a few exceptions. First, we removed the requirement to record the time of each monitoring event because the total number of pieces of equipment that are monitored each day should be sufficient for evaluating the ability of an operator to properly perform EPA Method 21. Second, records of information on bypass lines are not required because the new subpart does not include the requirement to monitor bypass lines. Third, because sources subject to subpart GGGa are not required to comply with the monitoring requirements applicable to connectors, the associated recordkeeping requirements do not apply to those sources. CAA section 114 specifically provides that we may have access to and copy any records and inspect any monitoring equipment and compliance method.

E. Burden Estimates

Comment: According to one commenter, the burden impact analyses of the proposed new recordkeeping and reporting requirements as presented in the preamble and docket do not comply with the ICR requirements of the Paperwork Reduction Act (PRA). The proposed new requirements of concern to the commenter are the requirements to keep records of information for all monitoring events, the time of each monitoring event, the time a new pump or valve is placed in service and results of new monitoring requirements for such pumps and valves, results from the new monitoring requirement for OEL, results of the new calibration drift checks, and results of weekly pump inspections. Another commenter also stated that the ICR requirements in the PRA were not met for recordkeeping and reporting associated with the proposed initial monitoring requirement for valves. A third commenter expressed a general concern that the proposed recordkeeping requirements may not meet the administrative requirements for proposing new NSPS.

One commenter noted several specific deficiencies and concerns with the burden impact analyses. First, it is not clear if all of the proposed new requirements are addressed in the ICR for sources subject to NSPS 40 CFR part 60, subpart GGG because the ICR does not discuss the incremental effects of the new requirements. Second, the ICR for SOCMI sources appears to address impacts only for those sources that elect to comply with the CAR option, not those that would comply directly with 40 CFR part 60, subpart VV. Third, no ICR analyses were provided for sources that are subject to other rules that reference subpart VV (i.e., NSPS subparts DDD and KKK of 40 CFR part 60, and the Refinery NESHAP). Fourth, the available analyses appear to address burden impacts only for sources that become subject to subparts VV and GGG in the future, but the proposed new requirements also would apply to sources that are currently subject to subpart VV or any of the rules that reference it. Fifth, even if some facilities voluntarily collect some of the records of concern, a requirement making their collection mandatory is still subject to the PRA, Regulatory Flexibility Act, and Executive Order 12866. Sixth, the commenter noted that the claim in the preamble that records of all monitoring events would be ''useful'' is not a legal basis for imposing the recordkeeping requirement. Seventh, if the total burden for all of the sources exceeds $100 million per year, additional review is triggered under other laws and Executive Order 12866. Based on the lack of analyses, the commenter stated that proposed recordkeeping and reporting requirements cannot be imposed on any sources, except perhaps new sources subject to subpart GGG, without additional proposal notice and opportunity for public comment.

Response: We disagree with the conclusions drawn by the commenters regarding the availability of the ICR. Document number EPA–HQ–OAR–2006–0699–0038 is the ICR associated with the CAR and all subparts that reference the CAR. This supporting statement displays the burden for sources that opt to comply with the CAR and for sources that opt to comply with their own referenced subpart, including 40 CFR part 60, subpart VV. For reference, pages 2–3, 6–7, 12–16, 33, 53, 77, and 112 all provide information specific to 40 CFR part 60, subpart VV.

For the final amendments and new standards, we have made adjustments to the supporting statements for all subparts involved. The burden associated with the amended 40 CFR part 60, subpart VV and the new 40 CFR part 60, subpart VVa is included in the supporting statement for the CAR and all other referenced subparts. The burden associated with the amended 40 CFR part 60, subpart GGG and the new 40 CFR part 60, subpart GGGa is included in the supporting statement that originally just supplied information for subpart GGG.

Because this particular rulemaking did not evaluate sources subject to 40 CFR part 60, subparts DDD and KKK or the Refinery NESHAP, we have not included any changes to the associated ICR for these subparts.

V. Summary of Cost, Environmental, Energy, and Economic Impacts

In setting standards, the CAA requires us to consider alternative emission control approaches, taking into account the estimated costs and benefits, as well as the energy, solid waste, and other effects. We are presenting estimates of the impacts for the 500 ppm leak definition for valves and the 2,000 ppm leak definition for pumps in 40 CFR part 60, subparts VVa and GGGa and connector monitoring in subpart VVa. The final amendments are clarifications to the existing subpart VV and subpart GGG to 40 CFR part 60; they have no associated emission reduction impacts. The cost, environmental, and economic impacts of the new standards are expressed as incremental differences between the impacts of SOCMI and petroleum refining process units complying with the new subparts and the current NSPS requirements (i.e., baseline). The impacts are presented for SOCMI and petroleum refining process

units constructed, reconstructed, or modified over the next 5 years. The analyses and the supporting documentation referenced below can be found in Docket ID No. EPA–HQ–OAR–2006–0699.

EPA estimates that there are no significant energy or secondary environmental impacts as a result of the new standards. The new standards are changes to work practice requirements and do not require changes to equipment or control devices. Therefore, use of fuel or electricity is not expected to increase significantly as a result of the new standards. Likewise, the new standards do not require physical changes that have the potential to increase wastewater or solid waste from SOCMI or petroleum refinery process units.

A. What are the impacts for SOCMI process units?

The methodology used to estimate impacts for the lower leak definitions for pumps and valves in the new 40 CFR part 60, subpart VVa is essentially the same as the methodology described in section VI.A of the preamble for the proposed amendments (71 FR 65311, November 7, 2006). There are, however, a few changes in the assumptions. We adjusted the estimates of baseline emissions and monitoring frequencies for new, modified, and reconstructed process units not subject to the HON, the MON, or the Ethylene NESHAP to better reflect baseline conditions.

In addition, we added emission reduction and cost impacts for the monitoring of connectors. The analysis completed for the proposed amendments to 40 CFR part 60, subpart VV was documented in a technical memorandum (EPA–HQ–OAR–2006–0699–0035). Based on the leak frequencies obtained from *Revised MACT Floor, Regulatory Alternatives, and Nationwide Impacts for Equipment Leaks at Chemical Manufacturing Facilities* (EPA–HQ–OAR–2003–0121–0004) at a leak definition of 500 ppm, we estimated that connectors would be monitored once every 4 years. SOCMI process units subject to the HON are already required to monitor connectors, so the baseline impacts for process units subject to these standards were equivalent to the impacts of the new standards. The methodology did not change for the analysis of the impacts for connectors subject to the new subpart VVa of 40 CFR part 60.

Based on the assumptions described above, we estimate that the new standards will reduce emissions of VOC about 325 tons/yr from the baseline. The estimated increase in annual cost, including annualized initial costs, is about $821,000. The cost-effectiveness is about $1,700 per ton of VOC removed. The estimated nationwide 5-year incremental emissions reductions and cost impacts for each of the new standards are summarized in Table 2 of this preamble.

TABLE 2.—NATIONAL EMISSION REDUCTIONS AND COST IMPACTS FOR SOCMI UNITS SUBJECT TO STANDARDS UNDER SUBPART VVA OF 40 CFR PART 60

[5th Year After Proposal]

Requirement	Annual emission reductions, tons/yr	Total initial cost, $million	Annualized cost, $thousand/yr	Recovery credit,[1] $thousand/yr	Total annual cost, $thousand/yr	Cost-effectiveness, $/ton
Lower leak definition for valves and pumps	94	0.15	41	77	−36	−380
Monitor connectors	230	3.1	780	190	590	2,500
Total	325	3.25	821	270	554	1,700

[1]Value of recovered product is $818/ton.

B. What are the impacts for petroleum refining process units?

The methodology used to estimate impacts for the new 40 CFR part 60, subpart GGGa is essentially the same as the methodology described in section VI.B of the preamble for the proposed amendments (71 FR 65311). There are, however, a few changes in the assumptions. For example, we originally assumed that the leak definitions in the Refinery NESHAP for valves and pumps on new sources since July 14, 1994, are equivalent to the leak definitions in 40 CFR part 60, subparts VVa and GGGa. However, the leak definitions in subparts VVa and GGGa are, in fact, more stringent than the Refinery NESHAP (proposed amendments at 72 FR 50716, September 4, 2007, did not include any changes to the equipment leak standards). Therefore, process units subject to both standards will comply with the leak definitions in subpart GGGa, so we revised the analysis of the impacts for the promulgated amendments to include the impacts for sources subject to both the Refinery NESHAP and subpart GGGa. We also adjusted the estimates of baseline emissions and monitoring frequencies for process units not subject to a consent decree. The revised impacts analysis is described in detail in Docket ID No. EPA–HQ–OAR–2006–0699.

We estimate that the new standards will reduce emissions of VOC about 13 tons/yr from the baseline. The estimated increase in annual cost, including annualized initial costs, is about $26,000. The cost-effectiveness is about $1,600 per ton of VOC removed. The estimated nationwide 5-year incremental emissions reductions and cost impacts for the new standards are summarized in Table 3 of this preamble.

TABLE 3.—NATIONAL EMISSION REDUCTIONS AND COST IMPACTS FOR PETROLEUM REFINERY UNITS SUBJECT TO STANDARDS UNDER SUBPART GGGA OF 40 CFR PART 60

[5th Year After Proposal]

Requirement	Annual emission reductions, tons/yr	Total initial cost, $thousand	Total annual cost, $thousand/yr	Recovery credit,[1] $thousand/yr	Total annual cost, $thousand/yr	Cost-effectiveness, $/ton
Lower leak definition for valves and pumps	13	24	26	7	19	1,600

[1]Value of recovered product is $545/ton.

C. What are the economic impacts?

An economic impact analysis was performed to compare the control costs associated with producing a product at petroleum refineries and various types of SOCMI facilities to the average value of shipments from such facilities. Since we are unable to associate projected control costs with specific facilities, we examined two polar cases for each industry, (1) a worst-case and (2) a best-case scenario. For the SOCMI, the polar cases are: (1) No more than eight complex process units located at a single facility and (2) no more than one process unit per facility. For petroleum refineries, the polar cases are: (1) All of the affected process units associated with one facility in the industry and (2) no more than one affected process unit at any given facility. In all cases, the magnitude of the costs is quite small. The only scenario for which the control costs reach 0.3 percent of the facility value of shipments is if an average ethyl alcohol manufacturing facility (in terms of value of shipments) experienced the worst case scenario of 8 complex processing units requiring control. Therefore, while the distribution of costs to small entities is unknown, no significant impact is expected for facilities of any size. The impact of the regulation on prices and profitability depends on the extent that the costs of control are passed on in the form of higher prices or absorbed by the facility. Because the costs are so small, any price increases or loss of profit would be quite small. No significant impact is expected as a result of the final amendments or the new standards of performance for equipment leaks of VOC for the petroleum refining industry and SOCMI.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The final amendments to the standards of performance for SOCMI and petroleum refineries (40 CFR part 60, subparts VV and GGG) do not impose any new information collection burden. The final amendments to these existing rules contain only clarifications, burden reducing provisions, and new compliance options. OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0443, EPA ICR number 1854.04, to the ICR for subpart VV and OMB control number 2060–0067, EPA ICR number 0983.08, to the ICR for subpart GGG. A copy of the OMB-approved ICR may be obtained from Susan Auby, Collection Strategies Division, Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

The information collection requirements in these new final standards (40 CFR part 60, subparts VVa and GGGa) have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information to be collected for the new standards are based on recordkeeping and reporting requirements in the NSPS General Provisions in 40 CFR part 60, subpart A, which are mandatory for all operators subject to NSPS. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

Facilities subject to 40 CFR part 60, subpart VVa are required to comply with the same monitoring, recordkeeping, and reporting requirements for equipment leaks as required by 40 CFR part 60, subpart VV, along with certain additional requirements. The new recordkeeping provisions in subpart VVa require general identifying information for each monitoring activity required by the rule and specific information needed to demonstrate compliance with the new monitoring provisions for connectors and pumps in light liquid service (weekly visual inspections for indications of dripping liquids). Records are also required to demonstrate compliance with the QA/QC requirement for a calibration drift assessment at the end of each day and comparison of the results of the assessment with the most recent calibration value. A new, reconstructed, or modified affected facility subject to 40 CFR part 60, subpart VVa or GGGa must submit a notification of compliance status report and include information about leaking connectors in semi-annual compliance reports. Affected facilities subject to subpart GGGa are required to comply with the monitoring, recordkeeping, and reporting requirements in subpart VVa except for the monitoring requirements applicable to connectors (and the associated recordkeeping/reporting requirements).

The annual average burden for the information collection requirements in 40 CFR part 60, subpart VVa is estimated at 7,194 labor-hours per year, with a total annual cost of $527,104 per year. The hour burden is based on an estimated 29 hours per response on a semi-annual basis by 76 respondents. Total capital/startup costs associated with the monitoring equipment over the 3-year period of the ICR are estimated at $4,200. The operation of the monitors is included in the monitoring costs, and maintenance costs on these units are incidental; therefore, no maintenance or operation costs are incurred.

The annual average burden for the information collection requirements in 40 CFR part 60, subpart GGGa is estimated at 4,216 labor-hours per year, with a total annual cost of $330,353 per year. The hour burden is based on an estimated 70 hours per response on a semi-annual basis by 20 respondents. No capital/startup costs or operation and maintenance costs are associated with the information collection requirements.

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; 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.

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 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment for the approved information collection requirements contained in the new standards.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the final amendments and new standards on small entities, small entity is defined as: (1) A small business according to Small Business Administration size standards by the North American Industry Classification System (NAICS) category of the owning entity; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. For the SOCMI, a small business ranges from less than 500 employees to less than 1,000 employees, depending on the NAICS code. For petroleum refiners, a small business has no more than 1,500 employees and a crude oil distillation capacity of no more than 125,000 barrels per calendar day.

After considering the economic impacts of these final amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that no facilities subject to the final amendments to the standards of performance for the SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG), including small businesses, will incur any adverse impacts because the final amendments do not create any new requirements or burdens. The final amendments include only clarifications, burden-reducing provisions, and new compliance options. We have determined that no facilities, large or small, subject to the new standards of performance for the SOCMI (40 CFR part 60, subpart VVa) or petroleum refineries (40 CFR part 60, subpart GGGa) will incur any economic impact greater than 0.3 percent of their revenues. For more information on the results of the analysis of small entity impacts, please refer to the economic impact analysis for the final amendments and new standards in Docket ID No. EPA–HQ–OAR–2006–0699.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this final action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. As discussed earlier in this preamble, no costs are associated with the final amendments, which contain only clarifications, burden-reducing provisions, and new compliance options. For the new standards, the estimated annual expenditures for the private sector in the fifth year after proposal are $821,000 for SOCMI and $26,000 for petroleum refineries. Thus, the final amendments and the new standards are not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that the final action contains no regulatory requirements that might significantly or uniquely affect small governments. The final action contains no requirements that apply to such governments, imposes no obligations upon them, and will not result in expenditures by them of $100 million or more in any 1 year or any disproportionate impacts on them. Therefore, the final action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of

regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The final action does not have federalism implications. The final amendments and the new standards will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to this final action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The final action does not have tribal implications, as specified in Executive Order 13175. The final amendments and the new standards will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final action is not subject to Executive Order 13045 because the final amendments and the new standards are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This final action is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this final action is not likely to have any adverse energy effects. The final action will not have any significant or adverse energy impacts because no additional pollution controls or other equipment that consume energy are required by the final amendments or new standards.

I. National Technology Transfer and Advancement Act

As noted in the proposal, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This rulemaking involves technical standards. The EPA cites the following methods: EPA Method 2, 2A, 2C, 2D, 18, 21, and 22 of 40 CFR part 60, appendix A.

In addition, the EPA cites the following ASTM methods that are also VCS: ASTM E260–73, E260–91, E260–96 (reapproved 2006), E168–67, E168–77, E168–92, E169–63, E169–77, and E169–93 when determining if a piece of equipment is in VOC service; ASTM D2879–83, D2879–96, and D2879–97 (reapproved 2007) when determining if a piece of equipment is in light liquid service, and ASTM D2504–67, D2504–77, D2504–88 (reapproved 1993), D2382–76, D2382–88, and D4809–95 when determining the maximum permitted velocity for air-assisted flares; ASTM E260–73, E260–91, E260–96, E168–67, E168–77, E168–92, E169–63, E169–77, and E169–93 when determining if a piece of equipment is in hydrogen service; and ASTM D86–78, D86–82, D86–90, D86–95, and D86–96 when determining if a piece of equipment is in light liquid service. These VCS will be incorporated by reference into § 60.17.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 2A, 2D, 21, and 22. The search and review results are in the docket for this rule.

The search identified one VCS as an acceptable alternative to an EPA Method. The standard ASTM D6420–99 (2004), ''Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry,'' is cited in this rule as an alternative to EPA Method 18 for measuring gaseous organic HAP.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated gas chromatography (GC)/mass spectrometry (MS). While offering advantages over the traditional EPA Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by EPA Method 18. Therefore, ASTM D6420–99 is a suitable alternative to EPA Method 18 only where:

(1) The target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and

(2) The target concentration is between 150 parts per billion by volume and 100 ppmv.

For target compound(s) not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report even if there is no moisture condenser used or the compound is not considered water soluble. For target

compound(s) not listed in Section 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA will cite ASTM D6420–99 in this rule. The EPA will also cite EPA Method 18 as a GC option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

The search for emissions measurement procedures identified four other VCS. The EPA determined that these four standards identified for measuring emissions of the HAP or surrogates subject to emission standards in this rule were impractical alternatives to EPA test methods for the purposes of this rule. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the four methods are discussed in the docket to this rule.

A source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures. Potential standards are reviewed to determine if they meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in EPA reference methods.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. The final amendments to the standards of performance for SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG) are comprised of clarifications, burden-reducing provisions, and new compliance options that do not affect the current level of control at facilities subject these rules. The new standards of performance for SOCMI (40 CFR part 60, subpart VVa) and petroleum refineries (40 CFR part 60, subpart GGGa) will increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The new subparts will increase the stringency of the standards of performance by reducing the leak definitions for certain pumps and valves, and subpart VVa will increase the stringency further by requiring the monitoring of certain connectors.

K. Congressional Review Act

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this final action and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final action 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). This final rule is effective on November 16, 2007.

List of Subjects

40 CFR Part 60

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

40 CFR Part 63

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

Dated: October 31, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons cited in the preamble, title 40, chapter I, parts 60 and 63 of the Code of Federal Regulations are amended as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 60.17 is amended by revising paragraphs (a)(7), (35), (36), (41), (70), (88), (89), and (90) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(a) * * *

(7) ASTM D86–78, 82, 90, 93, 95, 96, Distillation of Petroleum Products, IBR approved for §§ 60.562–2(d), 60.593(d), 60.593a(d), and 60.633(h).

* * * * *

(35) ASTM D2382–76, 88, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for §§ 60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(e)(4), 60.664(e)(4), and 60.704(d)(4).

(36) ASTM D2504–67, 77, 88 (Reapproved 1993), Noncondensable Gases in C3 and Lighter Hydrocarbon Products by Gas Chromatography, IBR approved for §§ 60.485(g)(5) and 60.485a(g)(5).

* * * * *

(41) ASTM D2879–83, 96, 97, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for §§ 60.111b(f)(3), 60.116b(e)(3)(ii), 60.116b(f)(2)(i), 60.485(e)(1), and 60.485a(e)(1).

* * * * *

(70) ASTM D4809–95, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for §§ 60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(d)(4), 60.664(e)(4), and 60.704(d)(4).

* * * * *

(88) ASTM E168–67, 77, 92, General Techniques of Infrared Quantitative Analysis, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(89) ASTM E169–63, 77, 93, General Techniques of Ultraviolet Quantitative Analysis, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(90) ASTM E260–73, 91, 96, General Gas Chromatography Procedures, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

* * * * *

Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006

■ 3. The heading for Subpart VV is revised as set out above.

■ 4. Section 60.480 is amended by revising paragraphs (b), (d)(2) through (d)(5), and (e) to read as follows:

§ 60.480 Applicability and designation of affected facility.

* * * * *

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after January 5, 1981, and on or before November 7, 2006, shall be subject to the requirements of this subpart.

* * * * *

(d) * * *

(2) Any affected facility that has the design capacity to produce less than 1,000 Mg/yr (1,102 ton/yr) of a chemical listed in § 60.489 is exempt from §§ 60.482–1 through 60.482–10.

(3) If an affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, then it is exempt from §§ 60.482–1 through 60.482–10.

(4) Any affected facility that produces beverage alcohol is exempt from §§ 60.482–1 through 60.482–10.

(5) Any affected facility that has no equipment in volatile organic compounds (VOC) service is exempt from §§ 60.482–1 through 60.482–10.

(e) *Alternative means of compliance*—(1) *Option to comply with part 65.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 65, subpart F, to satisfy the requirements of §§ 60.482 through 60.487 for an affected facility. When choosing to comply with 40 CFR part 65, subpart F, the requirements of § 60.485(d), (e), and (f) and § 60.486(i) and (j) still apply. Other provisions applying to an owner or operator who chooses to comply with 40 CFR part 65 are provided in 40 CFR 65.1.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 65, subpart F must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(1)(ii) do not apply to owners and operators of equipment subject to this subpart complying with 40 CFR part 65, subpart F, except that provisions required to be met prior to implementing 40 CFR part 65 still apply. Owners and operators who choose to comply with 40 CFR part 65, subpart F, must comply with 40 CFR part 65, subpart A.

(2) *Subpart VVa.* Owners or operators may choose to comply with the provisions of subpart VVa of this part 60 to satisfy the requirements of this subpart VV for an affected facility.

■ 5. Section 60.481 is amended by:

■ a. In the definition of ''Capital expenditure'' remove the table heading in paragraph (a)(3) and add in its place the heading ''Table for Determining Applicable Value for B'';

■ b. Revising the definitions for the terms ''Connector,'' ''First attempt at repair,'' ''Hard piping,'' ''Process unit,'' ''Process unit shutdown,'' and ''Repaired''; and

■ c. Adding, in alphabetical order, new definitions for the terms ''Closed-loop system,'' ''Closed-purge system,'' ''Storage vessel,'' and ''Transfer rack'' to read as follows:

§ 60.481 Definitions.

* * * * *

Closed-loop system means an enclosed system that returns process fluid to the process.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers for purged liquids must be covered or closed when not being filled or emptied.

* * * * *

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this subpart.

* * * * *

First attempt at repair means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

* * * * *

Hard-piping means pipe or tubing that is manufactured and properly installed using good engineering judgment and standards such as ASME B31.3, Process Piping (available from the American Society of Mechanical Engineers, PO Box 2300, Fairfield, NJ 07007–2300).

* * * * *

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be accomplished. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours.

(2) An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

* * * * *

Repaired means that equipment is adjusted, or otherwise altered, in order to eliminate a leak as defined in the applicable sections of this subpart and, except for leaks identified in accordance with §§ 60.482–2(b)(2)(ii) and (d)(6)(ii) and (iii), 60.482–3(f), and 60.482–10(f)(1)(ii), is re-monitored as specified in § 60.485(b) to verify that emissions from the equipment are below the applicable leak definition.

* * * * *

Storage vessel means a tank or other vessel that is used to store organic liquids that are used in the process as raw material feedstocks, produced as intermediates or final products, or generated as wastes. Storage vessel does not include vessels permanently attached to motor vehicles, such as trucks, railcars, barges, or ships.

* * * * *

Transfer rack means the collection of loading arms and loading hoses, at a

single loading rack, that are used to fill tank trucks and/or railcars with organic liquids.

* * * * *

■ 6. Section 60.482–1 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 60.482–1 Standards: General.

* * * * *

(e) Equipment that an owner or operator designates as being in VOC service less than 300 hours (hr)/yr is excluded from the requirements of §§ 60.482–2 through 60.482–10 if it is identified as required in § 60.486(e)(6) and it meets any of the conditions specified in paragraphs (e)(1) through (3) of this section.

(1) The equipment is in VOC service only during startup and shutdown, excluding startup and shutdown between batches of the same campaign for a batch process.

(2) The equipment is in VOC service only during process malfunctions or other emergencies.

(3) The equipment is backup equipment that is in VOC service only when the primary equipment is out of service.

(f)(1) If a dedicated batch process unit operates less than 365 days during a year, an owner or operator may monitor to detect leaks from pumps and valves at the frequency specified in the following table instead of monitoring as specified in §§ 60.482–2, 60.482–7, and 60.483–2:

Operating time (percent of hours during year)	Equivalent monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
0 to <25	Quarterly	Annually	Annually.
25 to <50	Quarterly	Semiannually	Annually.
50 to <75	Bimonthly	Three quarters	Semiannually.
75 to 100	Monthly	Quarterly	Semiannually.

(2) Pumps and valves that are shared among two or more batch process units that are subject to this subpart may be monitored at the frequencies specified in paragraph (f)(1) of this section, provided the operating time of all such process units is considered.

(3) The monitoring frequencies specified in paragraph (f)(1) of this section are not requirements for monitoring at specific intervals and can be adjusted to accommodate process operations. An owner or operator may monitor at any time during the specified monitoring period (e.g., month, quarter, year), provided the monitoring is conducted at a reasonable interval after completion of the last monitoring campaign. Reasonable intervals are defined in paragraphs (f)(3)(i) through (iv) of this section.

(i) When monitoring is conducted quarterly, monitoring events must be separated by at least 30 calendar days.

(ii) When monitoring is conducted semiannually (*i.e.*, once every 2 quarters), monitoring events must be separated by at least 60 calendar days.

(iii) When monitoring is conducted in 3 quarters per year, monitoring events must be separated by at least 90 calendar days.

(iv) When monitoring is conducted annually, monitoring events must be separated by at least 120 calendar days.

(g) If the storage vessel is shared with multiple process units, the process unit with the greatest annual amount of stored materials (predominant use) is the process unit the storage vessel is assigned to. If the storage vessel is shared equally among process units, and one of the process units has equipment subject to subpart VVa of this part, the storage vessel is assigned to that process unit. If the storage vessel is shared equally among process units, none of which have equipment subject to subpart VVa of this part, the storage vessel is assigned to any process unit subject to this subpart. If the predominant use of the storage vessel varies from year to year, then the owner or operator must estimate the predominant use initially and reassess every 3 years. The owner or operator must keep records of the information and supporting calculations that show how predominant use is determined. All equipment on the storage vessel must be monitored when in VOC service.

■ 7. Section 60.482–2 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraph(b)(2);

■ c. Revising paragraph (c)(2);

■ d. Revising paragraphs (d) introductory text, (d)(1)(ii), (d)(4), (d)(5), and (d)(6); and

■ e. Revising paragraph (e) introductory text to read as follows:

§ 60.482–2 Standards: Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.485(b), except as provided in § 60.482–1(c) and (f) and paragraphs (d), (e), and (f) of this section. A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period, except for a pump that replaces a leaking pump and except as provided in § 60.482–1(c) and (f) and paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in § 60.482–1(f).

(b) * * *

(2) If there are indications of liquids dripping from the pump seal, the owner or operator shall follow the procedure specified in either paragraph (b)(2)(i) or (ii) of this section. This requirement does not apply to a pump that was monitored after a previous weekly inspection if the instrument reading for that monitoring event was less than 10,000 ppm and the pump was not repaired since that monitoring event.

(i) Monitor the pump within 5 days as specified in § 60.485(b). If an instrument reading of 10,000 ppm or greater is measured, a leak is detected. The leak shall be repaired using the procedures in paragraph (c) of this section.

(ii) Designate the visual indications of liquids dripping as a leak, and repair the leak within 15 days of detection by eliminating the visual indications of liquids dripping.

(c) * * *

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected. First attempts at repair include, but are not limited to, the practices described in paragraphs (c)(2)(i) and (ii) of this section, where practicable.

(i) Tightening the packing gland nuts;

(ii) Ensuring that the seal flush is operating at design pressure and temperature.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a) of this section, provided the requirements specified in paragraphs (d)(1) through (6) of this section are met.

(1) * * *

(ii) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10; or

* * * * *

(4)(i) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(ii) If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (d)(4)(ii)(A) or (B) of this section.

(A) Monitor the pump within 5 days as specified in § 60.485(b) to determine if there is a leak of VOC in the barrier fluid. If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(B) Designate the visual indications of liquids dripping as a leak.

(5)(i) Each sensor as described in paragraph (d)(3) of this section is checked daily or is equipped with an audible alarm.

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(iii) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion established in paragraph (d)(5)(ii) of this section, a leak is detected.

(6)(i) When a leak is detected pursuant to paragraph (d)(4)(ii)(A) of this section, it shall be repaired as specified in paragraph (c) of this section.

(ii) A leak detected pursuant to paragraph (d)(5)(iii) of this section shall be repaired within 15 days of detection by eliminating the conditions that activated the sensor.

(iii) A designated leak pursuant to paragraph (d)(4)(ii)(B) of this section shall be repaired within 15 days of detection by eliminating visual indications of liquids dripping.

(e) Any pump that is designated, as described in § 60.486(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) of this section if the pump:

* * * * *

■ 8. Section 60.482–3 is amended by revising paragraphs (a) and (j) to read as follows:

§ 60.482–3 Standards: Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.482–1(c) and paragraphs (h), (i), and (j) of this section.

* * * * *

(j) Any existing reciprocating compressor in a process unit which becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from paragraphs (a) through (e) and (h) of this section, provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of paragraphs (a) through (e) and (h) of this section.

■ 9. Section 60.482–5 is amended by revising paragraphs (a) and (b) to read as follows:

§ 60.482–5 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in § 60.482–1(c) and paragraph (c) of this section.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall comply with the requirements specified in paragraphs (b)(1) through (4) of this section.

(1) Gases displaced during filling of the sample container are not required to be collected or captured.

(2) Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.

(3) Gases remaining in the tubing or piping between the closed-purge system valve(s) and sample container valve(s) after the valves are closed and the sample container is disconnected are not required to be collected or captured.

(4) Each closed-purge, closed-loop, or closed-vent system shall be designed and operated to meet requirements in either paragraph (b)(4)(i), (ii), (iii), or (iv) of this section.

(i) Return the purged process fluid directly to the process line.

(ii) Collect and recycle the purged process fluid to a process.

(iii) Capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10.

(iv) Collect, store, and transport the purged process fluid to any of the following systems or facilities:

(A) A waste management unit as defined in § 63.111, if the waste management unit is subject to and operated in compliance with the provisions of 40 CFR part 63, subpart G, applicable to Group 1 wastewater streams;

(B) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266;

(C) A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261;

(D) A waste management unit subject to and operated in compliance with the treatment requirements of § 61.348(a), provided all waste management units that collect, store, or transport the purged process fluid to the treatment unit are subject to and operated in compliance with the management requirements of §§ 61.343 through 61.347; or

(E) A device used to burn off-specification used oil for energy recovery in accordance with 40 CFR part 279, subpart G, provided the purged process fluid is not hazardous waste as defined in 40 CFR part 261.

* * * * *

■ 10. Section 60.482–6 is amended by revising paragraph (a)(1) to read as follows:

§ 60.482–6 Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1(c) and paragraphs (d) and (e) of this section.

* * * * *

■ 11. Section 60.482–7 is amended by revising paragraphs (a) and (c)(1) to read as follows:

§ 60.482–7 Standards: Valves in gas/vapor service and in light liquid service.

(a)(1) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1(c) and (f), and §§ 60.483–1 and 60.483–2.

(2) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to paragraphs (a)(2)(i) or (ii), except for a valve that replaces a leaking valve and except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1(c), and §§ 60.483–1 and 60.483–2.

(i) Monitor the valve as in paragraph (a)(1) of this section. The valve must be

monitored for the first time within 30 days after the end of its startup period to ensure proper installation.

(ii) If the valves on the process unit are monitored in accordance with § 60.483–1 or § 60.483–2, count the new valve as leaking when calculating the percentage of valves leaking as described in § 60.483–2(b)(5). If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

* * * * *

(c)(1)(i) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(ii) As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into 2 or 3 subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

* * * * *

■ 12. Section 60.482–8 is amended by revising paragraphs (a)(2) and (d) to read as follows:

§ 60.482–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and connectors.

(a) * * *

(2) The owner or operator shall eliminate the visual, audible, olfactory, or other indication of a potential leak within 5 calendar days of detection.

* * * * *

(d) First attempts at repair include, but are not limited to, the best practices described under §§ 60.482–2(c)(2) and 60.482–7(e).

■ 13. Section 60.482–9 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 60.482–9 Standards: Delay of repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown. Monitoring to verify repair must occur within 15 days after startup of the process unit.

* * * * *

(f) When delay of repair is allowed for a leaking pump or valve that remains in service, the pump or valve may be considered to be repaired and no longer subject to delay of repair requirements if two consecutive monthly monitoring instrument readings are below the leak definition.

■ 14. Section 60.483–1 is amended by revising paragraph (d) to read as follows:

§ 60.483–1 Alternative standards for valves—allowable percentage of valves leaking.

* * * * *

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent, determined as described in § 60.485(h).

■ 15. Section 60.483–2 is amended by revising paragraph (b)(5) and adding paragraph (b)(7) to read as follows:

§ 60.483–2 Alternative standards for valves—skip period leak detection and repair.

* * * * *

(b) * * *

(5) The percent of valves leaking shall be determined as described in § 60.485(h).

* * * * *

(7) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for a process unit following one of the alternative standards in this section must be monitored in accordance with § 60.482–7(a)(2)(i) or (ii) before the provisions of this section can be applied to that valve.

■ 16. Section 60.484 is amended by:

■ a. Removing the word ''equivalance'' and adding in its place the word ''equivalence'' in paragraph (a); and

■ b. Revising paragraph (b)(2) to read as follows:

§ 60.484 Equivalence of means of emission limitation.

* * * * *

(b) * * *

(2) The Administrator will compare test data for demonstrating equivalence of the means of emission limitation to test data for the equipment, design, and operational requirements.

* * * * *

■ 17. Section 60.485 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Revising paragraphs (e) introductory text, (e)(1) and (e)(2);

■ c. Revising paragraphs (g)(4) and (5); and

■ d. Adding paragraph (h) to read as follows:

§ 60.485 Test methods and procedures.

* * * * *

(b) The owner or operator shall determine compliance with the standards in §§ 60.482–1 through 60.482–10, 60.483, and 60.484 as follows:

* * * * *

(e) The owner or operator shall demonstrate that a piece of equipment is in light liquid service by showing that all the following conditions apply:

(1) The vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F). Standard reference texts or ASTM D2879–83, 96, or 97 (incorporated by reference—see § 60.17) shall be used to determine the vapor pressures.

(2) The total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F) is equal to or greater than 20 percent by weight.

* * * * *

(g) * * *

(4) The net heating value (H_T) of the gas being combusted in a flare shall be computed using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

Where:

K = Conversion constant, 1.740×10^{-7} (g-mole)(MJ)/(ppm-scm-kcal) (metric units) = 4.674×10^{-6} [(g-mole)(Btu)/(ppm-scf-kcal)] (English units)

C_i = Concentration of sample component ''i,'' ppm

H_i = Net heat of combustion of sample component ''i'' at 25 °C and 760 mm Hg (77 °F and 14.7 psi), kcal/g-mole

(5) Method 18 or ASTM D6420–99 (2004) (where the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion by volume and 100 parts per million by volume) and ASTM D2504–67, 77 or 88 (Reapproved 1993) (incorporated by reference—see § 60.17) shall be used to determine the concentration of sample component ''i.''

* * * * *

(h) The owner or operator shall determine compliance with § 60.483–1 or § 60.483–2 as follows:

(1) The percent of valves leaking shall be determined using the following equation:

$$\%V_L = (V_L/V_T) * 100$$

Where:

$\%V_L$ = Percent leaking valves

V_L = Number of valves found leaking

V_T = The sum of the total number of valves monitored

(2) The total number of valves monitored shall include difficult-to-monitor and unsafe-to-monitor valves

only during the monitoring period in which those valves are monitored.

(3) The number of valves leaking shall include valves for which repair has been delayed.

(4) Any new valve that is not monitored within 30 days of being placed in service shall be included in the number of valves leaking and the total number of valves monitored for the monitoring period in which the valve is placed in service.

(5) If the process unit has been subdivided in accordance with § 60.482–7(c)(1)(ii), the sum of valves found leaking during a monitoring period includes all subgroups.

(6) The total number of valves monitored does not include a valve monitored to verify repair.

■ 18. Section 60.486 is amended by revising paragraph (e)(2)(ii) and adding paragraph (e)(6) to read as follows:

§ 60.486 Recordkeeping requirements.

* * * * *

(e) * * *

(2) * * *

(ii) The designation of equipment as subject to the requirements of § 60.482–2(e), § 60.482–3(i), or § 60.482–7(f) shall be signed by the owner or operator. Alternatively, the owner or operator may establish a mechanism with their permitting authority that satisfies this requirement.

* * * * *

(6) A list of identification numbers for equipment that the owner or operator designates as operating in VOC service less than 300 hr/yr in accordance with § 60.482–1(e), a description of the conditions under which the equipment is in VOC service, and rationale supporting the designation that it is in VOC service less than 300 hr/yr.

* * * * *

■ 19. Section 60.487 is amended by:

■ a. Revising paragraphs (c)(2)(i), (c)(2)(iii), and (c)(2)(iv) to read as follows:

§ 60.487 Reporting requirements.

* * * * *

(c) * * *

(2) * * *

(i) Number of valves for which leaks were detected as described in § 60.482–7(b) or § 60.483–2,

* * * * *

(iii) Number of pumps for which leaks were detected as described in § 60.482–2(b), (d)(4)(ii)(A) or (B), or (d)(5)(iii),

(iv) Number of pumps for which leaks were not repaired as required in § 60.482–2(c)(1) and (d)(6),

* * * * *

■ 20. Part 60 is amended by adding subpart VVa to read as follows:

Subpart VVa—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006

Sec.

60.480a Applicability and designation of affected facility.
60.481a Definitions.
60.482–1a Standards: General.
60.482–2a Standards: Pumps in light liquid service.
60.482–3a Standards: Compressors.
60.482–4a Standards: Pressure relief devices in gas/vapor service.
60.482–5a Standards: Sampling connection systems.
60.482–6a Standards: Open-ended valves or lines.
60.482–7a Standards: Valves in gas/vapor service and in light liquid service.
60.482–8a Standards: Pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service.
60.482–9a Standards: Delay of repair.
60.482–10a Standards: Closed vent systems and control devices.
60.482–11a Standards: Connectors in gas/vapor service and in light liquid service.
60.483–1a Alternative standards for valves—allowable percentage of valves leaking.
60.483–2a Alternative standards for valves—skip period leak detection and repair.
60.484a Equivalence of means of emission limitation.
60.485a Test methods and procedures.
60.486a Recordkeeping requirements.
60.487a Reporting requirements.
60.488a Reconstruction.
60.489a List of chemicals produced by affected facilities.

§ 60.480a Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in the synthetic organic chemicals manufacturing industry.

(2) The group of all equipment (defined in § 60.481a) within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after November 7, 2006, shall be subject to the requirements of this subpart.

(c) Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d)(1) If an owner or operator applies for one or more of the exemptions in this paragraph, then the owner or operator shall maintain records as required in § 60.486a(i).

(2) Any affected facility that has the design capacity to produce less than 1,000 Mg/yr (1,102 ton/yr) of a chemical listed in § 60.489 is exempt from §§ 60.482–1a through 60.482–11a.

(3) If an affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, then it is exempt from §§ 60.482–1a through 60.482–11a.

(4) Any affected facility that produces beverage alcohol is exempt from §§ 60.482–1a through 60.482–11a.

(5) Any affected facility that has no equipment in volatile organic compounds (VOC) service is exempt from §§ 60.482–1a through 60.482–11a.

(e) *Alternative means of compliance*—(1) *Option to comply with part 65.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 65, subpart F, to satisfy the requirements of §§ 60.482–1a through 60.487a for an affected facility. When choosing to comply with 40 CFR part 65, subpart F, the requirements of §§ 60.485a(d), (e), and (f), and 60.486a(i) and (j) still apply. Other provisions applying to an owner or operator who chooses to comply with 40 CFR part 65 are provided in 40 CFR 65.1.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 65, subpart F must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(1)(ii) do not apply to owners or operators of equipment subject to this subpart complying with 40 CFR part 65, subpart F, except that provisions required to be met prior to implementing 40 CFR part 65 still apply. Owners and operators who choose to comply with 40 CFR part 65, subpart F, must comply with 40 CFR part 65, subpart A.

(2) *Part 63, subpart H.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 63, subpart H, to satisfy the requirements of §§ 60.482–1a through 60.487a for an affected facility. When choosing to comply with 40 CFR part 63, subpart H, the requirements of § 60.485a(d), (e), and (f), and § 60.486a(i) and (j) still apply.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 63, subpart H must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(2)(ii) do not apply to owners or operators of equipment subject to this

subpart complying with 40 CFR part 63, subpart H, except that provisions required to be met prior to implementing 40 CFR part 63 still apply. Owners and operators who choose to comply with 40 CFR part 63, subpart H, must comply with 40 CFR part 63, subpart A.

§ 60.481a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (CAA) or in subpart A of part 60, and the following terms shall have the specific meanings given them.

Capital expenditure means, in addition to the definition in 40 CFR 60.2, an expenditure for a physical or operational change to an existing facility that:

(a) Exceeds P, the product of the facility's replacement cost, R, and an adjusted annual asset guideline repair allowance, A, as reflected by the following equation: $P = R \times A$, where:

(1) The adjusted annual asset guideline repair allowance, A, is the product of the percent of the replacement cost, Y, and the applicable basic annual asset guideline repair allowance, B, divided by 100 as reflected by the following equation:

$A = Y \times (B \div 100)$;

(2) The percent Y is determined from the following equation: $Y = 1.0 - 0.575 \log X$, where X is 2006 minus the year of construction; and

(3) The applicable basic annual asset guideline repair allowance, B, is selected from the following table consistent with the applicable subpart:

TABLE FOR DETERMINING APPLICABLE VALUE FOR B

Subpart applicable to facility	Value of B to be used in equation
VVa	12.5
GGGa	7.0

Closed-loop system means an enclosed system that returns process fluid to the process.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers for purged liquids must be covered or closed when not being filled or emptied.

Closed vent system means a system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back to a process.

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation.

Control device means an enclosed combustion device, vapor recovery system, or flare.

Distance piece means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

Double block and bleed system means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

Duct work means a conveyance system such as those commonly used for heating and ventilation systems. It is often made of sheet metal and often has sections connected by screws or crimping. Hard-piping is not ductwork.

Equipment means each pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by this subpart.

First attempt at repair means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous stream(s) generated by onsite operations, may blend them with other sources of gas, and transports the gaseous stream for use as fuel gas in combustion devices or in-process combustion equipment, such as furnaces and gas turbines, either singly or in combination.

Hard-piping means pipe or tubing that is manufactured and properly installed using good engineering judgment and standards such as ASME B31.3, Process Piping (available from the American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, NJ 07007–2300).

In gas/vapor service means that the piece of equipment contains process fluid that is in the gaseous state at operating conditions.

In heavy liquid service means that the piece of equipment is not in gas/vapor service or in light liquid service.

In light liquid service means that the piece of equipment contains a liquid that meets the conditions specified in § 60.485a(e).

In-situ sampling systems means nonextractive samplers or in-line samplers.

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kilopascals (kPa) (0.7 psia) below ambient pressure.

In VOC service means that the piece of equipment contains or contacts a process fluid that is at least 10 percent VOC by weight. (The provisions of § 60.485a(d) specify how to determine that a piece of equipment is not in VOC service.)

Initial calibration value means the concentration measured during the initial calibration at the beginning of each day required in § 60.485a(b)(1), or the most recent calibration if the instrument is recalibrated during the day (i.e., the calibration is adjusted) after a calibration drift assessment.

Liquids dripping means any visible leakage from the seal including spraying, misting, clouding, and ice formation.

Open-ended valve or line means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

Pressure release means the emission of materials resulting from system pressure being greater than set pressure of the pressure relief device.

Process improvement means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1a(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process

material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be accomplished. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours.

(2) An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

Quarter means a 3-month period; the first quarter concludes on the last day of the last full month during the 180 days following initial startup.

Repaired means that equipment is adjusted, or otherwise altered, in order to eliminate a leak as defined in the applicable sections of this subpart and, except for leaks identified in accordance with §§ 60.482–2a(b)(2)(ii) and (d)(6)(ii) and (d)(6)(iii), 60.482–3a(f), and 60.482–10a(f)(1)(ii), is re-monitored as specified in § 60.485a(b) to verify that emissions from the equipment are below the applicable leak definition.

Replacement cost means the capital needed to purchase all the depreciable components in a facility.

Sampling connection system means an assembly of equipment within a process unit used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Sensor means a device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH, or liquid level.

Storage vessel means a tank or other vessel that is used to store organic liquids that are used in the process as raw material feedstocks, produced as intermediates or final products, or generated as wastes. Storage vessel does not include vessels permanently attached to motor vehicles, such as trucks, railcars, barges or ships.

Synthetic organic chemicals manufacturing industry means the industry that produces, as intermediates or final products, one or more of the chemicals listed in § 60.489.

Transfer rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks and/or railcars with organic liquids.

Volatile organic compounds or VOC means, for the purposes of this subpart, any reactive organic compounds as defined in § 60.2 Definitions.

§ 60.482–1a Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of §§ 60.482–1a through 60.482–10a or § 60.480a(e) for all equipment within 180 days of initial startup.

(b) Compliance with §§ 60.482–1a to 60.482–10a will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in § 60.485a.

(c)(1) An owner or operator may request a determination of equivalence of a means of emission limitation to the requirements of §§ 60.482–2a, 60.482–3a, 60.482–5a, 60.482–6a, 60.482–7a, 60.482–8a, and 60.482–10a as provided in § 60.484a.

(2) If the Administrator makes a determination that a means of emission limitation is at least equivalent to the requirements of §§ 60.482–2a, 60.482–3a, 60.482–5a, 60.482–6a, 60.482–7a, 60.482–8a, or 60.482–10a, an owner or operator shall comply with the requirements of that determination.

(d) Equipment that is in vacuum service is excluded from the requirements of §§ 60.482–2a through 60.482–10a if it is identified as required in § 60.486a(e)(5).

(e) Equipment that an owner or operator designates as being in VOC service less than 300 hr/yr is excluded from the requirements of §§ 60.482–2a through 60.482–11a if it is identified as required in § 60.486a(e)(6) and it meets any of the conditions specified in paragraphs (e)(1) through (3) of this section.

(1) The equipment is in VOC service only during startup and shutdown, excluding startup and shutdown between batches of the same campaign for a batch process.

(2) The equipment is in VOC service only during process malfunctions or other emergencies.

(3) The equipment is backup equipment that is in VOC service only when the primary equipment is out of service.

(f)(1) If a dedicated batch process unit operates less than 365 days during a year, an owner or operator may monitor to detect leaks from pumps, valves, and open-ended valves or lines at the frequency specified in the following table instead of monitoring as specified in §§ 60.482–2a, 60.482–7a, and 60.483.2a:

Operating time (percent of hours during year)	Equivalent monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
0 to <25	Quarterly	Annually	Annually.
25 to <50	Quarterly	Semiannually	Annually.
50 to <75	Bimonthly	Three quarters	Semiannually.
75 to 100	Monthly	Quarterly	Semiannually.

(2) Pumps and valves that are shared among two or more batch process units that are subject to this subpart may be monitored at the frequencies specified in paragraph (f)(1) of this section, provided the operating time of all such process units is considered.

(3) The monitoring frequencies specified in paragraph (f)(1) of this section are not requirements for monitoring at specific intervals and can be adjusted to accommodate process operations. An owner or operator may monitor at any time during the specified monitoring period (e.g., month, quarter, year), provided the monitoring is conducted at a reasonable interval after completion of the last monitoring campaign. Reasonable intervals are defined in paragraphs (f)(3)(i) through (iv) of this section.

(i) When monitoring is conducted quarterly, monitoring events must be separated by at least 30 calendar days.

(ii) When monitoring is conducted semiannually (*i.e.*, once every 2 quarters), monitoring events must be separated by at least 60 calendar days.

(iii) When monitoring is conducted in 3 quarters per year, monitoring events

must be separated by at least 90 calendar days.

(iv) When monitoring is conducted annually, monitoring events must be separated by at least 120 calendar days.

(g) If the storage vessel is shared with multiple process units, the process unit with the greatest annual amount of stored materials (predominant use) is the process unit the storage vessel is assigned to. If the storage vessel is shared equally among process units, and one of the process units has equipment subject to this subpart, the storage vessel is assigned to that process unit. If the storage vessel is shared equally among process units, none of which have equipment subject to this subpart of this part, the storage vessel is assigned to any process unit subject to subpart VV of this part. If the predominant use of the storage vessel varies from year to year, then the owner or operator must estimate the predominant use initially and reassess every 3 years. The owner or operator must keep records of the information and supporting calculations that show how predominant use is determined. All equipment on the storage vessel must be monitored when in VOC service.

§ 60.482–2a Standards: Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.485a(b), except as provided in § 60.482–1a(c) and (f) and paragraphs (d), (e), and (f) of this section. A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period, except for a pump that replaces a leaking pump and except as provided in § 60.482–1a(c) and paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in § 60.482–1a(f).

(b)(1) The instrument reading that defines a leak is specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) 5,000 parts per million (ppm) or greater for pumps handling polymerizing monomers;

(ii) 2,000 ppm or greater for all other pumps.

(2) If there are indications of liquids dripping from the pump seal, the owner or operator shall follow the procedure specified in either paragraph (b)(2)(i) or (ii) of this section. This requirement does not apply to a pump that was monitored after a previous weekly inspection and the instrument reading was less than the concentration specified in paragraph (b)(1)(i) or (ii) of this section, whichever is applicable.

(i) Monitor the pump within 5 days as specified in § 60.485a(b). A leak is detected if the instrument reading measured during monitoring indicates a leak as specified in paragraph (b)(1)(i) or (ii) of this section, whichever is applicable. The leak shall be repaired using the procedures in paragraph (c) of this section.

(ii) Designate the visual indications of liquids dripping as a leak, and repair the leak using either the procedures in paragraph (c) of this section or by eliminating the visual indications of liquids dripping.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected. First attempts at repair include, but are not limited to, the practices described in paragraphs (c)(2)(i) and (ii) of this section, where practicable.

(i) Tightening the packing gland nuts;

(ii) Ensuring that the seal flush is operating at design pressure and temperature.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a) of this section, provided the requirements specified in paragraphs (d)(1) through (6) of this section are met.

(1) Each dual mechanical seal system is:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

(ii) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10a; or

(iii) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(2) The barrier fluid system is in heavy liquid service or is not in VOC service.

(3) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4)(i) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(ii) If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (d)(4)(ii)(A) or (B) of this section prior to the next required inspection.

(A) Monitor the pump within 5 days as specified in § 60.485a(b) to determine if there is a leak of VOC in the barrier fluid. If an instrument reading of 2,000 ppm or greater is measured, a leak is detected.

(B) Designate the visual indications of liquids dripping as a leak.

(5)(i) Each sensor as described in paragraph (d)(3) is checked daily or is equipped with an audible alarm.

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(iii) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion established in paragraph (d)(5)(ii) of this section, a leak is detected.

(6)(i) When a leak is detected pursuant to paragraph (d)(4)(ii)(A) of this section, it shall be repaired as specified in paragraph (c) of this section.

(ii) A leak detected pursuant to paragraph (d)(5)(iii) of this section shall be repaired within 15 days of detection by eliminating the conditions that activated the sensor.

(iii) A designated leak pursuant to paragraph (d)(4)(ii)(B) of this section shall be repaired within 15 days of detection by eliminating visual indications of liquids dripping.

(e) Any pump that is designated, as described in § 60.486a(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) of this section if the pump:

(1) Has no externally actuated shaft penetrating the pump housing;

(2) Is demonstrated to be operating with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background as measured by the methods specified in § 60.485a(c); and

(3) Is tested for compliance with paragraph (e)(2) of this section initially upon designation, annually, and at other times requested by the Administrator.

(f) If any pump is equipped with a closed vent system capable of capturing and transporting any leakage from the seal or seals to a process or to a fuel gas system or to a control device that complies with the requirements of § 60.482–10a, it is exempt from

paragraphs (a) through (e) of this section.

(g) Any pump that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor pump is exempt from the monitoring and inspection requirements of paragraphs (a) and (d)(4) through (6) of this section if:

(1) The owner or operator of the pump demonstrates that the pump is unsafe-to-monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section; and

(2) The owner or operator of the pump has a written plan that requires monitoring of the pump as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in paragraph (c) of this section if a leak is detected.

(h) Any pump that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (a)(2) and (d)(4) of this section, and the daily requirements of paragraph (d)(5) of this section, provided that each pump is visually inspected as often as practicable and at least monthly.

§ 60.482–3a Standards: Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.482–1a(c) and paragraphs (h), (i), and (j) of this section.

(b) Each compressor seal system as required in paragraph (a) of this section shall be:

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or

(2) Equipped with a barrier fluid system degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10a; or

(3) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(c) The barrier fluid system shall be in heavy liquid service or shall not be in VOC service.

(d) Each barrier fluid system as described in paragraph (a) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in paragraph (d) of this section shall be checked daily or shall be equipped with an audible alarm.

(2) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(f) If the sensor indicates failure of the seal system, the barrier system, or both based on the criterion determined under paragraph (e)(2) of this section, a leak is detected.

(g)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(h) A compressor is exempt from the requirements of paragraphs (a) and (b) of this section, if it is equipped with a closed vent system to capture and transport leakage from the compressor drive shaft back to a process or fuel gas system or to a control device that complies with the requirements of § 60.482–10a, except as provided in paragraph (i) of this section.

(i) Any compressor that is designated, as described in § 60.486a(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a) through (h) of this section if the compressor:

(1) Is demonstrated to be operating with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.485a(c); and

(2) Is tested for compliance with paragraph (i)(1) of this section initially upon designation, annually, and at other times requested by the Administrator.

(j) Any existing reciprocating compressor in a process unit which becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from paragraphs (a) through (e) and (h) of this section, provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of paragraphs (a) through (e) and (h) of this section.

§ 60.482–4a Standards: Pressure relief devices in gas/vapor service.

(a) Except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined by the methods specified in § 60.485a(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in § 60.482–9a.

(2) No later than 5 calendar days after the pressure release, the pressure relief device shall be monitored to confirm the conditions of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, by the methods specified in § 60.485a(c).

(c) Any pressure relief device that is routed to a process or fuel gas system or equipped with a closed vent system capable of capturing and transporting leakage through the pressure relief device to a control device as described in § 60.482–10a is exempted from the requirements of paragraphs (a) and (b) of this section.

(d)(1) Any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of paragraphs (a) and (b) of this section, provided the owner or operator complies with the requirements in paragraph (d)(2) of this section.

(2) After each pressure release, a new rupture disk shall be installed upstream of the pressure relief device as soon as practicable, but no later than 5 calendar days after each pressure release, except as provided in § 60.482–9a.

§ 60.482–5a Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in § 60.482–1a(c) and paragraph (c) of this section.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall comply with the requirements specified in paragraphs (b)(1) through (4) of this section.

(1) Gases displaced during filling of the sample container are not required to be collected or captured.

(2) Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.

(3) Gases remaining in the tubing or piping between the closed-purge system valve(s) and sample container valve(s) after the valves are closed and the sample container is disconnected are not required to be collected or captured.

(4) Each closed-purge, closed-loop, or closed-vent system shall be designed and operated to meet requirements in either paragraph (b)(4)(i), (ii), (iii), or (iv) of this section.

(i) Return the purged process fluid directly to the process line.

(ii) Collect and recycle the purged process fluid to a process.

(iii) Capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10a.

(iv) Collect, store, and transport the purged process fluid to any of the following systems or facilities:

(A) A waste management unit as defined in 40 CFR 63.111, if the waste management unit is subject to and operated in compliance with the provisions of 40 CFR part 63, subpart G, applicable to Group 1 wastewater streams;

(B) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266;

(C) A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261;

(D) A waste management unit subject to and operated in compliance with the treatment requirements of 40 CFR 61.348(a), provided all waste management units that collect, store, or transport the purged process fluid to the treatment unit are subject to and operated in compliance with the management requirements of 40 CFR 61.343 through 40 CFR 61.347; or

(E) A device used to burn off-specification used oil for energy recovery in accordance with 40 CFR part 279, subpart G, provided the purged process fluid is not hazardous waste as defined in 40 CFR part 261.

(c) In-situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (a) and (b) of this section.

§ 60.482–6a Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1a(c) and paragraphs (d) and (e) of this section.

(2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(c) When a double block-and-bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (a) of this section at all other times.

(d) Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirements of paragraphs (a), (b), and (c) of this section.

(e) Open-ended valves or lines containing materials which would autocatalytically polymerize or would present an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraphs (a) through (c) of this section are exempt from the requirements of paragraphs (a) through (c) of this section.

§ 60.482–7a Standards: Valves in gas/vapor service and in light liquid service.

(a)(1) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485a(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1a(c) and (f), and §§ 60.483–1a and 60.483–2a.

(2) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to paragraphs (a)(2)(i) or (ii), except for a valve that replaces a leaking valve and except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1a(c), and §§ 60.483–1a and 60.483–2a.

(i) Monitor the valve as in paragraph (a)(1) of this section. The valve must be monitored for the first time within 30 days after the end of its startup period to ensure proper installation.

(ii) If the existing valves in the process unit are monitored in accordance with § 60.483–1a or § 60.483–2a, count the new valve as leaking when calculating the percentage of valves leaking as described in § 60.483–2a(b)(5). If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

(b) If an instrument reading of 500 ppm or greater is measured, a leak is detected.

(c)(1)(i) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(ii) As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into two or three subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts;

(2) Replacement of bonnet bolts;

(3) Tightening of packing gland nuts;

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in § 60.486a(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraph (a) of this section if the valve:

(1) Has no external actuating mechanism in contact with the process fluid,

(2) Is operated with emissions less than 500 ppm above background as determined by the method specified in § 60.485a(c), and

(3) Is tested for compliance with paragraph (f)(2) of this section initially upon designation, annually, and at other times requested by the Administrator.

(g) Any valve that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor valve is exempt from the requirements of paragraph (a) of this section if:

(1) The owner or operator of the valve demonstrates that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section, and

(2) The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

(h) Any valve that is designated, as described in § 60.486a(f)(2), as a difficult-to-monitor valve is exempt

from the requirements of paragraph (a) of this section if:

(1) The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The process unit within which the valve is located either:

(i) Becomes an affected facility through § 60.14 or § 60.15 and was constructed on or before January 5, 1981; or

(ii) Has less than 3.0 percent of its total number of valves designated as difficult-to-monitor by the owner or operator.

(3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

§ 60.482–8a Standards: Pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service.

(a) If evidence of a potential leak is found by visual, audible, olfactory, or any other detection method at pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service, the owner or operator shall follow either one of the following procedures:

(1) The owner or operator shall monitor the equipment within 5 days by the method specified in § 60.485a(b) and shall comply with the requirements of paragraphs (b) through (d) of this section.

(2) The owner or operator shall eliminate the visual, audible, olfactory, or other indication of a potential leak within 5 calendar days of detection.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under §§ 60.482–2a(c)(2) and 60.482–7a(e).

§ 60.482–9a Standards: Delay of repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown. Monitoring to verify repair must occur within 15 days after startup of the process unit.

(b) Delay of repair of equipment will be allowed for equipment which is isolated from the process and which does not remain in VOC service.

(c) Delay of repair for valves and connectors will be allowed if:

(1) The owner or operator demonstrates that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and

(2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with § 60.482–10a.

(d) Delay of repair for pumps will be allowed if:

(1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system, and

(2) Repair is completed as soon as practicable, but not later than 6 months after the leak was detected.

(e) Delay of repair beyond a process unit shutdown will be allowed for a valve, if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next process unit shutdown will not be allowed unless the next process unit shutdown occurs sooner than 6 months after the first process unit shutdown.

(f) When delay of repair is allowed for a leaking pump, valve, or connector that remains in service, the pump, valve, or connector may be considered to be repaired and no longer subject to delay of repair requirements if two consecutive monthly monitoring instrument readings are below the leak definition.

§ 60.482–10a Standards: Closed vent systems and control devices.

(a) Owners or operators of closed vent systems and control devices used to comply with provisions of this subpart shall comply with the provisions of this section.

(b) Vapor recovery systems (for example, condensers and absorbers) shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million by volume (ppmv), whichever is less stringent.

(c) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 ppmv, on a dry basis, corrected to 3 percent oxygen, whichever is less stringent or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816 °C.

(d) Flares used to comply with this subpart shall comply with the requirements of § 60.18.

(e) Owners or operators of control devices used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs.

(f) Except as provided in paragraphs (i) through (k) of this section, each closed vent system shall be inspected according to the procedures and schedule specified in paragraphs (f)(1) and (2) of this section.

(1) If the vapor collection system or closed vent system is constructed of hard-piping, the owner or operator shall comply with the requirements specified in paragraphs (f)(1)(i) and (ii) of this section:

(i) Conduct an initial inspection according to the procedures in § 60.485a(b); and

(ii) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(2) If the vapor collection system or closed vent system is constructed of ductwork, the owner or operator shall:

(i) Conduct an initial inspection according to the procedures in § 60.485a(b); and

(ii) Conduct annual inspections according to the procedures in § 60.485a(b).

(g) Leaks, as indicated by an instrument reading greater than 500 ppmv above background or by visual inspections, shall be repaired as soon as practicable except as provided in paragraph (h) of this section.

(1) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(2) Repair shall be completed no later than 15 calendar days after the leak is detected.

(h) Delay of repair of a closed vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be complete by the end of the next process unit shutdown.

(i) If a vapor collection system or closed vent system is operated under a vacuum, it is exempt from the

inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section.

(j) Any parts of the closed vent system that are designated, as described in paragraph (l)(1) of this section, as unsafe to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (j)(1) and (2) of this section:

(1) The owner or operator determines that the equipment is unsafe to inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with paragraphs (f)(1)(i) or (f)(2) of this section; and

(2) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times.

(k) Any parts of the closed vent system that are designated, as described in paragraph (l)(2) of this section, as difficult to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (k)(1) through (3) of this section:

(1) The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters above a support surface; and

(2) The process unit within which the closed vent system is located becomes an affected facility through §§ 60.14 or 60.15, or the owner or operator designates less than 3.0 percent of the total number of closed vent system equipment as difficult to inspect; and

(3) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years. A closed vent system is exempt from inspection if it is operated under a vacuum.

(l) The owner or operator shall record the information specified in paragraphs (l)(1) through (5) of this section.

(1) Identification of all parts of the closed vent system that are designated as unsafe to inspect, an explanation of why the equipment is unsafe to inspect, and the plan for inspecting the equipment.

(2) Identification of all parts of the closed vent system that are designated as difficult to inspect, an explanation of why the equipment is difficult to inspect, and the plan for inspecting the equipment.

(3) For each inspection during which a leak is detected, a record of the information specified in § 60.486a(c).

(4) For each inspection conducted in accordance with § 60.485a(b) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(5) For each visual inspection conducted in accordance with paragraph (f)(1)(ii) of this section during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(m) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

§ 60.482–11a Standards: Connectors in gas/vapor service and in light liquid service.

(a) The owner or operator shall initially monitor all connectors in the process unit for leaks by the later of either 12 months after the compliance date or 12 months after initial startup. If all connectors in the process unit have been monitored for leaks prior to the compliance date, no initial monitoring is required provided either no process changes have been made since the monitoring or the owner or operator can determine that the results of the monitoring, with or without adjustments, reliably demonstrate compliance despite process changes. If required to monitor because of a process change, the owner or operator is required to monitor only those connectors involved in the process change.

(b) Except as allowed in § 60.482–1a(c), § 60.482–10a, or as specified in paragraph (e) of this section, the owner or operator shall monitor all connectors in gas and vapor and light liquid service as specified in paragraphs (a) and (b)(3) of this section.

(1) The connectors shall be monitored to detect leaks by the method specified in § 60.485a(b) and, as applicable, § 60.485a(c).

(2) If an instrument reading greater than or equal to 500 ppm is measured, a leak is detected.

(3) The owner or operator shall perform monitoring, subsequent to the initial monitoring required in paragraph (a) of this section, as specified in paragraphs (b)(3)(i) through (iii) of this section, and shall comply with the requirements of paragraphs (b)(3)(iv) and (v) of this section. The required period in which monitoring must be conducted shall be determined from paragraphs (b)(3)(i) through (iii) of this section using the monitoring results from the preceding monitoring period. The percent leaking connectors shall be calculated as specified in paragraph (c) of this section.

(i) If the percent leaking connectors in the process unit was greater than or equal to 0.5 percent, then monitor within 12 months (1 year).

(ii) If the percent leaking connectors in the process unit was greater than or equal to 0.25 percent but less than 0.5 percent, then monitor within 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors within 2 years of the start of the monitoring period, provided all connectors have been monitored by the end of the 4-year monitoring period.

(iii) If the percent leaking connectors in the process unit was less than 0.25 percent, then monitor as provided in paragraph (b)(3)(iii)(A) of this section and either paragraph (b)(3)(iii)(B) or (b)(3)(iii)(C) of this section, as appropriate.

(A) An owner or operator shall monitor at least 50 percent of the connectors within 4 years of the start of the monitoring period.

(B) If the percent of leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is greater than or equal to 0.35 percent of the monitored connectors, the owner or operator shall monitor as soon as practical, but within the next 6 months, all connectors that have not yet been monitored during the monitoring period. At the conclusion of monitoring, a new monitoring period shall be started pursuant to paragraph (b)(3) of this section, based on the percent of leaking connectors within the total monitored connectors.

(C) If the percent of leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is less than 0.35 percent of the monitored connectors, the owner or operator shall monitor all connectors that have not yet been monitored within 8 years of the start of the monitoring period.

(iv) If, during the monitoring conducted pursuant to paragraphs (b)(3)(i) through (iii) of this section, a connector is found to be leaking, it shall be re-monitored once within 90 days after repair to confirm that it is not leaking.

(v) The owner or operator shall keep a record of the start date and end date of each monitoring period under this section for each process unit.

(c) For use in determining the monitoring frequency, as specified in paragraphs (a) and (b)(3) of this section, the percent leaking connectors as used in paragraphs (a) and (b)(3) of this section shall be calculated by using the following equation:

$\%C_L = C_L / C_t * 100$

Where:

$\%C_L$ = Percent of leaking connectors as determined through periodic monitoring required in paragraphs (a) and (b)(3)(i) through (iii) of this section.

C_L = Number of connectors measured at 500 ppm or greater, by the method specified in § 60.485a(b).

C_t = Total number of monitored connectors in the process unit or affected facility.

(d) When a leak is detected pursuant to paragraphs (a) and (b) of this section, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a. A first attempt at repair as defined in this subpart shall be made no later than 5 calendar days after the leak is detected.

(e) Any connector that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor connector is exempt from the requirements of paragraphs (a) and (b) of this section if:

(1) The owner or operator of the connector demonstrates that the connector is unsafe-to-monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (a) and (b) of this section; and

(2) The owner or operator of the connector has a written plan that requires monitoring of the connector as frequently as practicable during safe-to-monitor times but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in paragraph (d) of this section if a leak is detected.

(f) *Inaccessible, ceramic, or ceramic-lined connectors.* (1) Any connector that is inaccessible or that is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined), is exempt from the monitoring requirements of paragraphs (a) and (b) of this section, from the leak repair requirements of paragraph (d) of this section, and from the recordkeeping and reporting requirements of §§ 63.1038 and 63.1039. An inaccessible connector is one that meets any of the provisions specified in paragraphs (f)(1)(i) through (vi) of this section, as applicable:

(i) Buried;

(ii) Insulated in a manner that prevents access to the connector by a monitor probe;

(iii) Obstructed by equipment or piping that prevents access to the connector by a monitor probe;

(iv) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold that would allow access to connectors up to 7.6 meters (25 feet) above the ground;

(v) Inaccessible because it would require elevating the monitoring personnel more than 2 meters (7 feet) above a permanent support surface or would require the erection of scaffold; or

(vi) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(2) If any inaccessible, ceramic, or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the visual, audible, olfactory, or other indications of a leak to the atmosphere shall be eliminated as soon as practical.

(g) Except for instrumentation systems and inaccessible, ceramic, or ceramic-lined connectors meeting the provisions of paragraph (f) of this section, identify the connectors subject to the requirements of this subpart. Connectors need not be individually identified if all connectors in a designated area or length of pipe subject to the provisions of this subpart are identified as a group, and the number of connectors subject is indicated.

§ 60.483–1a Alternative standards for valves—allowable percentage of valves leaking.

(a) An owner or operator may elect to comply with an allowable percentage of valves leaking of equal to or less than 2.0 percent.

(b) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of valves leaking:

(1) An owner or operator must notify the Administrator that the owner or operator has elected to comply with the allowable percentage of valves leaking before implementing this alternative standard, as specified in § 60.487a(d).

(2) A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Administrator.

(3) If a valve leak is detected, it shall be repaired in accordance with § 60.482–7a(d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves in gas/vapor and light liquid service within the affected facility shall be monitored within 1 week by the methods specified in § 60.485a(b).

(2) If an instrument reading of 500 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves in gas/vapor and light liquid service within the affected facility.

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent, determined as described in § 60.485a(h).

§ 60.483–2a Alternative standards for valves—skip period leak detection and repair.

(a)(1) An owner or operator may elect to comply with one of the alternative work practices specified in paragraphs (b)(2) and (3) of this section.

(2) An owner or operator must notify the Administrator before implementing one of the alternative work practices, as specified in § 60.487(d)a.

(b)(1) An owner or operator shall comply initially with the requirements for valves in gas/vapor service and valves in light liquid service, as described in § 60.482–7a.

(2) After 2 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 1 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(3) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 3 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(4) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in § 60.482–7a but can again elect to use this section.

(5) The percent of valves leaking shall be determined as described in § 60.485a(h).

(6) An owner or operator must keep a record of the percent of valves found leaking during each leak detection period.

(7) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for a process unit following one of the alternative standards in this section must be monitored in accordance with § 60.482–7a(a)(2)(i) or (ii) before the provisions of this section can be applied to that valve.

§ 60.484a Equivalence of means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart.

(b) Determination of equivalence to the equipment, design, and operational requirements of this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of means of emission limitation.

(2) The Administrator will compare test data for demonstrating equivalence of the means of emission limitation to test data for the equipment, design, and operational requirements.

(3) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment, design, and operational requirements.

(c) Determination of equivalence to the required work practices in this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate equivalence of an equivalent means of emission limitation.

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the required work practice shall be demonstrated.

(3) For each affected facility, for which a determination of equivalence is requested, the emission reduction achieved by the equivalent means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit in writing to work practice(s) that provide for emission reductions equal to or greater than the emission reductions achieved by the required work practice.

(5) The Administrator will compare the demonstrated emission reduction for the equivalent means of emission limitation to the demonstrated emission reduction for the required work practices and will consider the commitment in paragraph (c)(4) of this section.

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the required work practice.

(d) An owner or operator may offer a unique approach to demonstrate the equivalence of any equivalent means of emission limitation.

(e)(1) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing if the Administrator judges that the request may be approved.

(2) After notice and opportunity for public hearing, the Administrator will determine the equivalence of a means of emission limitation and will publish the determination in the **Federal Register**.

(3) Any equivalent means of emission limitations approved under this section shall constitute a required work practice, equipment, design, or operational standard within the meaning of section 111(h)(1) of the CAA.

(f)(1) Manufacturers of equipment used to control equipment leaks of VOC may apply to the Administrator for determination of equivalence for any equivalent means of emission limitation that achieves a reduction in emissions of VOC achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will make an equivalence determination according to the provisions of paragraphs (b), (c), (d), and (e) of this section.

§ 60.485a Test methods and procedures.

(a) In conducting the performance tests required in § 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b) The owner or operator shall determine compliance with the standards in §§ 60.482–1a through 60.482–11a, 60.483a, and 60.484a as follows:

(1) Method 21 shall be used to determine the presence of leaking sources. The instrument shall be calibrated before use each day of its use by the procedures specified in Method 21 of appendix A–7 of this part. The following calibration gases shall be used:

(i) Zero air (less than 10 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration no more than 2,000 ppm greater than the leak definition concentration of the equipment monitored. If the monitoring instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,000 ppm above the concentration specified as a leak, and the highest scale shall be calibrated with a calibration gas that is approximately equal to 10,000 ppm. If only one scale on an instrument will be used during monitoring, the owner or operator need not calibrate the scales that will not be used during that day's monitoring.

(2) A calibration drift assessment shall be performed, at a minimum, at the end of each monitoring day. Check the instrument using the same calibration gas(es) that were used to calibrate the instrument before use. Follow the procedures specified in Method 21 of appendix A–7 of this part, Section 10.1, except do not adjust the meter readout to correspond to the calibration gas value. Record the instrument reading for each scale used as specified in § 60.486a(e)(7). Calculate the average algebraic difference between the three meter readings and the most recent calibration value. Divide this algebraic difference by the initial calibration value and multiply by 100 to express the calibration drift as a percentage. If any calibration drift assessment shows a negative drift of more than 10 percent from the initial calibration value, then all equipment monitored since the last calibration with instrument readings below the appropriate leak definition and above the leak definition multiplied by (100 minus the percent of negative drift/divided by 100) must be re-monitored. If any calibration drift assessment shows a positive drift of more than 10 percent from the initial calibration value, then, at the owner/operator's discretion, all equipment since the last calibration with instrument readings above the appropriate leak definition and below the leak definition multiplied by (100 plus the percent of positive drift/divided by 100) may be re-monitored.

(c) The owner or operator shall determine compliance with the no-detectable-emission standards in §§ 60.482–2a(e), 60.482–3a(i), 60.482–4a, 60.482–7a(f), and 60.482–10a(e) as follows:

(1) The requirements of paragraph (b) shall apply.

(2) Method 21 of appendix A–7 of this part shall be used to determine the background level. All potential leak interfaces shall be traversed as close to the interface as possible. The arithmetic difference between the maximum

concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d) The owner or operator shall test each piece of equipment unless he demonstrates that a process unit is not in VOC service, i.e., that the VOC content would never be reasonably expected to exceed 10 percent by weight. For purposes of this demonstration, the following methods and procedures shall be used:

(1) Procedures that conform to the general methods in ASTM E260–73, 91, or 96, E168–67, 77, or 92, E169–63, 77, or 93 (incorporated by reference—see § 60.17) shall be used to determine the percent VOC content in the process fluid that is contained in or contacts a piece of equipment.

(2) Organic compounds that are considered by the Administrator to have negligible photochemical reactivity may be excluded from the total quantity of organic compounds in determining the VOC content of the process fluid.

(3) Engineering judgment may be used to estimate the VOC content, if a piece of equipment had not been shown previously to be in service. If the Administrator disagrees with the judgment, paragraphs (d)(1) and (2) of this section shall be used to resolve the disagreement.

(e) The owner or operator shall demonstrate that a piece of equipment is in light liquid service by showing that all the following conditions apply:

(1) The vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F). Standard reference texts or ASTM D2879–83, 96, or 97 (incorporated by reference—see § 60.17) shall be used to determine the vapor pressures.

(2) The total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F) is equal to or greater than 20 percent by weight.

(3) The fluid is a liquid at operating conditions.

(f) Samples used in conjunction with paragraphs (d), (e), and (g) of this section shall be representative of the process fluid that is contained in or contacts the equipment or the gas being combusted in the flare.

(g) The owner or operator shall determine compliance with the standards of flares as follows:

(1) Method 22 of appendix A–7 of this part shall be used to determine visible emissions.

(2) A thermocouple or any other equivalent device shall be used to monitor the presence of a pilot flame in the flare.

(3) The maximum permitted velocity for air assisted flares shall be computed using the following equation:

$V_{max} = K_1 + K_2 H_T$

Where:

V_{max} = Maximum permitted velocity, m/sec (ft/sec).

H_T = Net heating value of the gas being combusted, MJ/scm (Btu/scf).

K_1 = 8.706 m/sec (metric units) = 28.56 ft/sec (English units).

K_2 = 0.7084 m^4/(MJ-sec) (metric units) = 0.087 ft^4/(Btu-sec) (English units).

(4) The net heating value (HT) of the gas being combusted in a flare shall be computed using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

Where:

K = Conversion constant, 1.740×10^{-7} (g-mole)(MJ)/(ppm-scm-kcal) (metric units) = 4.674×10^{-6} [(g-mole)(Btu)/(ppm-scf-kcal)] (English units).

C_i = Concentration of sample component ''i,'' ppm

H_i = net heat of combustion of sample component ''i'' at 25 °C and 760 mm Hg (77 °F and 14.7 psi), kcal/g-mole.

(5) Method 18 of appendix A–6 of this part or ASTM D6420–99 (2004) (where the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion by volume and 100 ppmv) and ASTM D2504–67, 77, or 88 (Reapproved 1993) (incorporated by reference-see § 60.17) shall be used to determine the concentration of sample component ''i.''

(6) ASTM D2382–76 or 88 or D4809–95 (incorporated by reference-see § 60.17) shall be used to determine the net heat of combustion of component ''i'' if published values are not available or cannot be calculated.

(7) Method 2, 2A, 2C, or 2D of appendix A–7 of this part, as appropriate, shall be used to determine the actual exit velocity of a flare. If needed, the unobstructed (free) cross-sectional area of the flare tip shall be used.

(h) The owner or operator shall determine compliance with § 60.483–1a or § 60.483–2a as follows:

(1) The percent of valves leaking shall be determined using the following equation:

$\%V_L = (V_L / V_T) * 100$

Where:

$\%V_L$ = Percent leaking valves.

V_L = Number of valves found leaking.

V_T = The sum of the total number of valves monitored.

(2) The total number of valves monitored shall include difficult-to-monitor and unsafe-to-monitor valves only during the monitoring period in which those valves are monitored.

(3) The number of valves leaking shall include valves for which repair has been delayed.

(4) Any new valve that is not monitored within 30 days of being placed in service shall be included in the number of valves leaking and the total number of valves monitored for the monitoring period in which the valve is placed in service.

(5) If the process unit has been subdivided in accordance with § 60.482–7a(c)(1)(ii), the sum of valves found leaking during a monitoring period includes all subgroups.

(6) The total number of valves monitored does not include a valve monitored to verify repair.

§ 60.486a Recordkeeping requirements.

(a)(1) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(2) An owner or operator of more than one affected facility subject to the provisions of this subpart may comply with the recordkeeping requirements for these facilities in one recordkeeping system if the system identifies each record by each facility.

(3) The owner or operator shall record the information specified in paragraphs (a)(3)(i) through (v) of this section for each monitoring event required by §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a.

(i) Monitoring instrument identification.

(ii) Operator identification.

(iii) Equipment identification.

(iv) Date of monitoring.

(v) Instrument reading.

(b) When each leak is detected as specified in §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(2) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in § 60.482–7a(c) and no leak has been detected during those 2 months.

(3) The identification on a connector may be removed after it has been monitored as specified in § 60.482–11a(b)(3)(iv) and no leak has been detected during that monitoring.

(4) The identification on equipment, except on a valve or connector, may be removed after it has been repaired.

(c) When each leak is detected as specified in §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:

(1) The instrument and operator identification numbers and the equipment identification number, except when indications of liquids dripping from a pump are designated as a leak.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) Maximum instrument reading measured by Method 21 of appendix A–7 of this part at the time the leak is successfully repaired or determined to be nonrepairable, except when a pump is repaired by eliminating indications of liquids dripping.

(5) ''Repair delayed'' and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) Dates of process unit shutdowns that occur while the equipment is unrepaired.

(9) The date of successful repair of the leak.

(d) The following information pertaining to the design requirements for closed vent systems and control devices described in § 60.482–10a shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any changes in the design specifications.

(3) A description of the parameter or parameters monitored, as required in § 60.482–10a(e), to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

(4) Periods when the closed vent systems and control devices required in §§ 60.482–2a, 60.482–3a, 60.482–4a, and 60.482–5a are not operated as designed, including periods when a flare pilot light does not have a flame.

(5) Dates of startups and shutdowns of the closed vent systems and control devices required in §§ 60.482–2a, 60.482–3a, 60.482–4a, and 60.482–5a.

(e) The following information pertaining to all equipment subject to the requirements in §§ 60.482–1a to 60.482–11a shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for equipment subject to the requirements of this subpart.

(2)(i) A list of identification numbers for equipment that are designated for no detectable emissions under the provisions of §§ 60.482–2a(e), 60.482–3a(i), and 60.482–7a(f).

(ii) The designation of equipment as subject to the requirements of § 60.482–2a(e), § 60.482–3a(i), or § 60.482–7a(f) shall be signed by the owner or operator. Alternatively, the owner or operator may establish a mechanism with their permitting authority that satisfies this requirement.

(3) A list of equipment identification numbers for pressure relief devices required to comply with § 60.482–4a.

(4)(i) The dates of each compliance test as required in §§ 60.482–2a(e), 60.482–3a(i), 60.482–4a, and 60.482–7a(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(5) A list of identification numbers for equipment in vacuum service.

(6) A list of identification numbers for equipment that the owner or operator designates as operating in VOC service less than 300 hr/yr in accordance with § 60.482–1a(e), a description of the conditions under which the equipment is in VOC service, and rationale supporting the designation that it is in VOC service less than 300 hr/yr.

(7) The date and results of the weekly visual inspection for indications of liquids dripping from pumps in light liquid service.

(8) Records of the information specified in paragraphs (e)(8)(i) through (vi) of this section for monitoring instrument calibrations conducted according to sections 8.1.2 and 10 of Method 21 of appendix A–7 of this part and § 60.485a(b).

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value in accordance with section 10.1 of Method 21 of appendix A–7 of this part.

(v) Results of each calibration drift assessment required by § 60.485a(b)(2) (i.e., instrument reading for calibration at end of monitoring day and the calculated percent difference from the initial calibration value).

(vi) If an owner or operator makes their own calibration gas, a description of the procedure used.

(9) The connector monitoring schedule for each process unit as specified in § 60.482–11a(b)(3)(v).

(10) Records of each release from a pressure relief device subject to § 60.482–4a.

(f) The following information pertaining to all valves subject to the requirements of § 60.482–7a(g) and (h), all pumps subject to the requirements of § 60.482–2a(g), and all connectors subject to the requirements of § 60.482–11a(e) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for valves, pumps, and connectors that are designated as unsafe-to-monitor, an explanation for each valve, pump, or connector stating why the valve, pump, or connector is unsafe-to-monitor, and the plan for monitoring each valve, pump, or connector.

(2) A list of identification numbers for valves that are designated as difficult-to-monitor, an explanation for each valve stating why the valve is difficult-to-monitor, and the schedule for monitoring each valve.

(g) The following information shall be recorded for valves complying with § 60.483–2a:

(1) A schedule of monitoring.

(2) The percent of valves found leaking during each monitoring period.

(h) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) Design criterion required in §§ 60.482–2a(d)(5) and 60.482–3a(e)(2) and explanation of the design criterion; and

(2) Any changes to this criterion and the reasons for the changes.

(i) The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in § 60.480a(d):

(1) An analysis demonstrating the design capacity of the affected facility,

(2) A statement listing the feed or raw materials and products from the affected facilities and an analysis demonstrating whether these chemicals are heavy liquids or beverage alcohol, and

(3) An analysis demonstrating that equipment is not in VOC service.

(j) Information and data used to demonstrate that a piece of equipment is not in VOC service shall be recorded

in a log that is kept in a readily accessible location.

(k) The provisions of § 60.7(b) and (d) do not apply to affected facilities subject to this subpart.

§ 60.487a Reporting requirements.

(a) Each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the Administrator beginning 6 months after the initial startup date.

(b) The initial semiannual report to the Administrator shall include the following information:

(1) Process unit identification.

(2) Number of valves subject to the requirements of § 60.482–7a, excluding those valves designated for no detectable emissions under the provisions of § 60.482–7a(f).

(3) Number of pumps subject to the requirements of § 60.482–2a, excluding those pumps designated for no detectable emissions under the provisions of § 60.482–2a(e) and those pumps complying with § 60.482–2a(f).

(4) Number of compressors subject to the requirements of § 60.482–3a, excluding those compressors designated for no detectable emissions under the provisions of § 60.482–3a(i) and those compressors complying with § 60.482–3a(h).

(5) Number of connectors subject to the requirements of § 60.482–11a.

(c) All semiannual reports to the Administrator shall include the following information, summarized from the information in § 60.486a:

(1) Process unit identification.

(2) For each month during the semiannual reporting period,

(i) Number of valves for which leaks were detected as described in § 60.482–7a(b) or § 60.483–2a,

(ii) Number of valves for which leaks were not repaired as required in § 60.482–7a(d)(1),

(iii) Number of pumps for which leaks were detected as described in § 60.482–2a(b), (d)(4)(ii)(A) or (B), or (d)(5)(iii),

(iv) Number of pumps for which leaks were not repaired as required in § 60.482–2a(c)(1) and (d)(6),

(v) Number of compressors for which leaks were detected as described in § 60.482–3a(f),

(vi) Number of compressors for which leaks were not repaired as required in § 60.482–3a(g)(1),

(vii) Number of connectors for which leaks were detected as described in § 60.482–11a(b)

(viii) Number of connectors for which leaks were not repaired as required in § 60.482–11a(d), and

(xi) The facts that explain each delay of repair and, where appropriate, why a process unit shutdown was technically infeasible.

(3) Dates of process unit shutdowns which occurred within the semiannual reporting period.

(4) Revisions to items reported according to paragraph (b) of this section if changes have occurred since the initial report or subsequent revisions to the initial report.

(d) An owner or operator electing to comply with the provisions of §§ 60.483–1a or 60.483–2a shall notify the Administrator of the alternative standard selected 90 days before implementing either of the provisions.

(e) An owner or operator shall report the results of all performance tests in accordance with § 60.8 of the General Provisions. The provisions of § 60.8(d) do not apply to affected facilities subject to the provisions of this subpart except that an owner or operator must notify the Administrator of the schedule for the initial performance tests at least 30 days before the initial performance tests.

(f) The requirements of paragraphs (a) through (c) of this section remain in force until and unless EPA, in delegating enforcement authority to a state under section 111(c) of the CAA, approves reporting requirements or an alternative means of compliance surveillance adopted by such state. In that event, affected sources within the state will be relieved of the obligation to comply with the requirements of paragraphs (a) through (c) of this section, provided that they comply with the requirements established by the state.

§ 60.488a Reconstruction.

For the purposes of this subpart:

(a) The cost of the following frequently replaced components of the facility shall not be considered in calculating either the ''fixed capital cost of the new components'' or the ''fixed capital costs that would be required to construct a comparable new facility'' under § 60.15: Pump seals, nuts and bolts, rupture disks, and packings.

(b) Under § 60.15, the ''fixed capital cost of new components'' includes the fixed capital cost of all depreciable components (except components specified in § 60.488a(a)) which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following the applicability date for the appropriate subpart. (See the ''Applicability and designation of affected facility'' section of the appropriate subpart.) For purposes of this paragraph, ''commenced'' means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

§ 60.489a List of chemicals produced by affected facilities.

Process units that produce, as intermediates or final products, chemicals listed in § 60.489 are covered under this subpart. The applicability date for process units producing one or more of these chemicals is November 8, 2006.

Subpart GGG—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006

■ 21. The heading for Subpart GGG is revised as set out above.

■ 22. Section 60.590 is amended by revising paragraphs (b) and (d) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after January 4, 1983, and on or before November 7, 2006, is subject to the requirements of this subpart.

* * * * *

(d) Facilities subject to subpart VV, subpart VVa, or subpart KKK of this part are excluded from this subpart.

* * * * *

■ 23. Section 60.591 is amended by adding a definition of ''Asphalt'' in alphabetical order and revising the definition of ''Process unit'' to read as follows:

§ 60.591 Definitions.

* * * * *

Asphalt (also known as Bitumen) is a black or dark brown solid or semi-solid thermo-plastic material possessing waterproofing and adhesive properties. It is a complex combination of higher molecular weight organic compounds containing a relatively high proportion of hydrocarbons having carbon numbers greater than C25 with a high carbon to hydrogen ratio. It is essentially non-volatile at ambient temperatures with closed cup flash point of 445 °F (230 °C) or greater.

* * * * *

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

■ 24. Section 60.592 is amended by revising paragraph (b) to read as follows:

§ 60.592 Standards.

* * * * *

(b) For a given process unit, an owner or operator may elect to comply with the requirements of paragraphs (b)(1), (2), or (3) of this section as an alternative to the requirements in § 60.482–7.

(1) Comply with § 60.483–1.

(2) Comply with § 60.483–2.

(3) Comply with the Phase III provisions in 40 CFR 63.168, except an owner or operator may elect to follow the provisions in § 60.482–7(f) instead of 40 CFR 63.168 for any valve that is designated as being leakless.

* * * * *

■ 25. Section 60.593 is amended by:

■ a. Revising the first sentence of paragraph (b)(2);

■ b. Revising paragraphs (c) and (d); and

■ c. Adding paragraph (f) to read as follows:

§ 60.593 Exceptions.

* * * * *

(b) * * *

(2) Each compressor is presumed not to be in hydrogen service unless an owner or operator demonstrates that the piece of equipment is in hydrogen service. * * *

* * * * *

(c) Any existing reciprocating compressor that becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from § 60.482–3(a), (b), (c), (d), (e), and (h) provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of § 60.482–3(a), (b), (c), (d), (e), and (h).

(d) An owner or operator may use the following provision in addition to § 60.485(e): Equipment is in light liquid service if the percent evaporated is greater than 10 percent at 150 °C as determined by ASTM Method D86–78, 82, 90, 95, or 96 (incorporated by reference as specified in § 60.17).

* * * * *

(f) Open-ended valves or lines containing asphalt as defined in § 60.591 are exempt from the requirements of § 60.482–6(a) through (c).

■ 26. Part 60 is amended by adding subpart GGGa to read as follows:

Subpart GGGa—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006

Sec.

60.590a Applicability and designation of affected facility.
60.591a Definitions.
60.592a Standards.
60.593a Exceptions.

§ 60.590a Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in petroleum refineries.

(2) A compressor is an affected facility.

(3) The group of all the equipment (defined in § 60.591a) within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after November 7, 2006, is subject to the requirements of this subpart.

(c) Addition or replacement of equipment (defined in § 60.591a) for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d) Facilities subject to subpart VV, subpart VVa, subpart GGG, or subpart KKK of this part are excluded from this subpart.

§ 60.591a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act, in subpart A of part 60, or in subpart VVa of this part, and the following terms shall have the specific meanings given them.

Alaskan North Slope means the approximately 69,000 square mile area extending from the Brooks Range to the Arctic Ocean.

Asphalt (also known as Bitumen) is a black or dark brown solid or semi-solid thermo-plastic material possessing waterproofing and adhesive properties. It is a complex combination of higher molecular weight organic compounds containing a relatively high proportion of hydrocarbons having carbon numbers greater than C25 with a high carbon to hydrogen ratio. It is essentially non-volatile at ambient temperatures with closed cup flash point of 445 ° F (230 ° C) or greater.

Equipment means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service. For the purposes of recordkeeping and reporting only, compressors are considered equipment.

In hydrogen service means that a compressor contains a process fluid that meets the conditions specified in § 60.593a(b).

In light liquid service means that the piece of equipment contains a liquid that meets the conditions specified in § 60.593a(c).

Petroleum means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

Petroleum refinery means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives.

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1a(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

§ 60.592a Standards.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.482–1a to 60.482–10a as soon as practicable, but no later than 180 days after initial startup.

(b) For a given process unit, an owner or operator may elect to comply with the requirements of paragraphs (b)(1), (2), or (3) of this section as an alternative to the requirements in § 60.482–7a.

(1) Comply with § 60.483–1a.

(2) Comply with § 60.483–2a.

(3) Comply with the Phase III provisions in § 63.168, except an owner or operator may elect to follow the provisions in § 60.482–7a(f) instead of § 63.168 for any valve that is designated as being leakless.

(c) An owner or operator may apply to the Administrator for a determination of equivalency for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart. In doing so, the owner or operator shall comply with requirements of § 60.484a.

(d) Each owner or operator subject to the provisions of this subpart shall comply with the provisions of § 60.485a except as provided in § 60.593a.

(e) Each owner or operator subject to the provisions of this subpart shall comply with the provisions of §§ 60.486a and 60.487a.

§ 60.593a Exceptions.

(a) Each owner or operator subject to the provisions of this subpart may comply with the following exceptions to the provisions of subpart VVa of this part.

(b)(1) Compressors in hydrogen service are exempt from the requirements of § 60.592a if an owner or operator demonstrates that a compressor is in hydrogen service.

(2) Each compressor is presumed not to be in hydrogen service unless an owner or operator demonstrates that the piece of equipment is in hydrogen service. For a piece of equipment to be considered in hydrogen service, it must be determined that the percent hydrogen content can be reasonably expected always to exceed 50 percent by volume. For purposes of determining the percent hydrogen content in the process fluid that is contained in or contacts a compressor, procedures that conform to the general method described in ASTM E260–73, 91, or 96, E168–67, 77, or 92, or E169–63, 77, or 93 (incorporated by reference as specified in § 60.17) shall be used.

(3)(i) An owner or operator may use engineering judgment rather than procedures in paragraph (b)(2) of this section to demonstrate that the percent content exceeds 50 percent by volume, provided the engineering judgment demonstrates that the content clearly exceeds 50 percent by volume. When an owner or operator and the Administrator do not agree on whether a piece of equipment is in hydrogen service, however, the procedures in paragraph (b)(2) of this section shall be used to resolve the disagreement.

(ii) If an owner or operator determines that a piece of equipment is in hydrogen service, the determination can be revised only after following the procedures in paragraph (b)(2).

(c) Any existing reciprocating compressor that becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from § 60.482–3a(a), (b), (c), (d), (e), and (h) provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of § 60.482–3a(a), (b), (c), (d), (e), and (h).

(d) An owner or operator may use the following provision in addition to § 60.485a(e): Equipment is in light liquid service if the percent evaporated is greater than 10 percent at 150 °C as determined by ASTM Method D86–78, 82, 90, 93, 95, or 96 (incorporated by reference as specified in § 60.17).

(e) Pumps in light liquid service and valves in gas/vapor and light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the requirements of §§ 60.482–2a and 60.482–7a.

(f) Open-ended valves or lines containing asphalt as defined in § 60.591a are exempt from the requirements of § 60.482–6a(a) through (c).

(g) Connectors in gas/vapor or light liquid service are exempt from the requirements in § 60.482–11a, provided the owner or operator complies with § 60.482–8a for all connectors, not just those in heavy liquid service.

PART 63—[AMENDED]

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

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

Subpart A—[Amended]

■ 28. Section 63.14 is amended by revising paragraph (b)(28) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(28) ASTM D6420–99 (Reapproved 2004), Standards Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectometry, IBR approved for §§ 60.485(g)(5), 60.485a(g)(5), 63.772(a)(1)(ii), 63.2354(b)(3)(i), 63.2354(b)(3)(ii), 63.2354(b)(3)(ii)(A), and 63.2351(b)(3)(ii)(B).

* * * * *

[FR Doc. E7–21814 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,
November 16, 2007

Part IV

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 423

Medicare Program; Proposed Standards for E-Prescribing Under Medicare Part D; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 423

[CMS–0016–P]

RIN 0938–AO66

Medicare Program; Proposed Standards for E-Prescribing Under Medicare Part D

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

ACTION: Proposed rule.

SUMMARY: This rule proposes the adoption of final uniform standards for an electronic prescription drug program as required by section 1860D–4(e)(4)(D) of the Social Security Act (the Act). It also proposes the adoption of a standard identifier for providers and dispensers for use in e-prescribing transactions under sections 1860D–4(e)(3) and 1860D–4(e)(4)(C)(ii), and section 1102 of the Social Security Act. The standards proposed under section 1860D–4(e)(4)(D) have been pilot tested and evaluated, and the findings indicate that the proposed standards meet the requirements for final standards that can be used for the Medicare Part D e-prescribing programs. The standards proposed in this rule, in addition to the foundation standards that were already adopted as final standards (see 70 FR 67568), represent an ongoing approach to adopting standards that are consistent with the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) objectives of patient safety, quality of care, and efficiencies and cost saving in the delivery of care.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 15, 2008.

ADDRESSES: In commenting, please refer to file code CMS–0016–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/eRulemaking.* Click on the link ''Submit electronic comments on CMS regulations with an open comment period.'' (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word).

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention CMS–0016–P, P.O. Box 8014, Baltimore, MD 21244–8014.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare and Medicaid Services, Department of Health and Human Services, Attention: CMS–0016–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses: If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHS Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the close of the comment period.

Submission of comments on paperwork requirements: You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the ''Collection of Information Requirements'' section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Denise M. Buenning, (410) 786–6711.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. Comments will be most useful if they are organized by the section of the proposed rule to which they apply. You can assist us by referencing the file code (CMS–0016–P) and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all electronic comments received before the close of the comment period on its public website. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, please call (800) 743–3951.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders also can be placed by calling the order desk at (202) 512–1800 (or toll-free at (888) 293–6498) or by sending a fax to (202) 512–2250. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Web site address is *http://www.gpoaccess.gpo.gov/fr/index.html.*

I. Background

A. Legislative History

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) amended title XVIII of the Social Security Act (the Act) to establish

a voluntary prescription drug benefit program.

Prescription Drug Plan (PDP) sponsors and Medicare Advantage (MA) organizations offering Medicare Advantage-Prescription Drug Plans (MA–PD), are required to establish electronic prescription drug programs to provide for electronic transmittal of certain information to the prescribing provider and dispensing pharmacy and pharmacist. This would include information about eligibility, benefits (including drugs included in the applicable formulary, any tiered formulary structure and any requirements for prior authorization), the drug being prescribed or dispensed and other drugs listed in the medication history, as well as the availability of lower cost, therapeutically appropriate alternatives (if any) for the drug prescribed. The MMA directed the Secretary to promulgate uniform standards for the electronic transmission of such data.

There is no requirement that prescribers or dispensers implement e-prescribing. However, prescribers and dispensers who electronically transmit prescription and certain other information for covered drugs prescribed for Medicare Part D eligible beneficiaries, directly or through an intermediary, would be required to comply with any applicable final standards that are in effect.

Section 1860D–4(e)(4) of the Act generally required the Secretary to conduct a pilot project to test initial standards recognized under 1860D–4(e)(4)(A) of the Act, prior to issuing the final standards in accordance with section 1860D–4(e)(4)(D) of the Act. The initial standards were recognized by the Secretary in 2005 and then tested in a pilot project during calendar year (CY) 2006. The MMA created an exception to the requirement for pilot testing of standards where, after consultation with the National Committee on Vital and Health Statistics (NCVHS), the Secretary determined that there already was adequate industry experience with the standard(s). The first set of such standards, the ''foundation standards,'' were recognized and adopted through notice and comment rulemaking as final standards without pilot testing. See 70 FR 67568.

Based upon the evaluation of the pilot project, and not later than April 1, 2008, the Secretary is required to issue final uniform standards under section 1860D–4(e)(4)(D). These final standards must be effective not later than 1 year after the date of their issuance.

In the e-prescribing final rule at 70 FR 67589, we also discussed the estimated start-up costs for e-prescribing for providers and/or dispensers. Based on industry input, we cited approximately $3,000 for annual support, maintenance, infrastructure and licensing costs. Physicians at that time reported paying user-based licensing fees ranging from $80 to $400 per month. For further discussion of the start-up costs associated with e-prescribing, see the regulatory impact analysis section of this proposed regulation, and the e-prescribing final rule at 70 FR 67589.

For a further discussion of the statutory basis for this proposed rule and the statutory requirements at section 1860D–4(e) of the Act, please refer to section I. (Background) of the E-Prescribing and the Prescription Drug Program proposed rule, published February 4, 2005 (70 FR 6256).

B. Regulatory History

In the e-prescribing final rule at 70 FR 67589, we also discussed the estimated start-up costs for e-prescribing for providers and/or dispensers. Based on industry input, we cited approximately $3,000 for annual support, maintenance, infrastructure and licensing costs. Physicians at that time reported paying user-based licensing fees ranging from $80 to $400 per month. For further discussion of the start-up costs associated with e-prescribing, see the regulatory impact analysis section of this proposed regulation, and the e-prescribing final rule at 70 FR 67589.

In the November 7, 2005 final rule, we addressed the issues of privacy and security relative to e-prescribing in general. We noted that disclosures of protected health information (PHI) in connection with e-prescribing transactions would have to meet the minimum necessary requirements of the Privacy Rule if the entity is a covered entity (70 FR 6161). It is important to note that health plans, prescribers, and dispensers are HIPAA covered entities, and that these covered entities under HIPAA must continue to abide by the applicable HIPAA standards including these for privacy and security. E-prescribing provisions do not affect or alter the applicability of the Privacy Act to a particular entity. Entities which are covered by the Privacy Act and the HIPAA Privacy Rule must comply with provisions of both. Entities are responsible for determining whether they fall under the Privacy Act.

We continue to agree that privacy and security are important issues related to e-prescribing. Achieving the benefits of e-prescribing require the prescriber and dispenser to have access to patient medical information that may not have been previously available to them. Section 1860–D(e)(2)(C) of the Act requires that disclosure of patient data in e-prescribing must, at a minimum, comply with HIPAA's privacy and security requirements.

Although HIPAA standards for privacy and security are flexible and scalable to each entity's situation, they provide comprehensive protections. We will continue to evaluate additional standards for consideration as adopted e-prescribing standards. For further discussion of privacy and security and e-prescribing, refer to the final rule at 70 FR 67581 through 82.

1. Foundation Standards

After consulting with the NCVHS, the Secretary found that there was adequate industry experience with several potential e-prescribing standards. Upon adoption through notice and comment rulemaking, these standards were called ''foundation'' standards, because they would be the first set of final standards adopted for an electronic prescription drug program. Three standards were adopted for purposes of e-prescribing in the E-Prescribing and the Prescription Drug Program final rule, published November 7, 2005 (70 FR 67568). Two of these standards, Accredited Standards Committee (ASC) X12N 270/271; and The National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Specification, Version 5, Release 1 (Version 5.1), were previously adopted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and have been in effect since 2001.

These foundation standards are as follows:

For the exchange of eligibility information between prescribers and Medicare Part D sponsors: Accredited Standards Committee (ASC) X12N 270/271—Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, Washington Publishing Company, 004010X092 and Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010A1, October 2002, Washington Publishing Company. 004010X092A1 (hereafter referred to as the ASC X12N 270/271 standard).

For the exchange of eligibility inquiries and responses between dispensers and Medicare Part D sponsors: The National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Specification, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000 supporting Telecommunications Standard Implementation Guide Version

5, Release 1 (Version 5.1) for NCPDP Data Record in the Detail Data Record (hereafter referred to as the NCPDP Telecommunications Standard).

For the exchange of new prescriptions, changes, renewals, cancellations and certain other transactions between prescribers and dispensers: NCPDP SCRIPT Standard, Implementation Guide, Version 5, Release 0 (Version 5.0), May 12, 2004, excluding the Prescription Fill Status Notification Transaction (and its three business cases; Prescription Fill Status Notification Transaction—Filled, Prescription Fill Status Notification Transaction—Not Filled, and Prescription Fill Status Notification Transaction—Partial Fill), hereafter referred to as NCPDP SCRIPT 5.0.

a. Exemptions to Foundation Standard Requirement for Nonprescribing Providers

In 42 CFR 423.160(a)(3)(iii) we exempt entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a non-prescribing provider (such as a nursing facility) that in turn forwards the prescription to a dispenser from the requirement to use the NCPDP SCRIPT Standard 5.0 adopted by this section in transmitting such prescriptions or prescription-related information.

Industry comments indicated that while the e-prescribing standards we proposed were proven to have adequate industry experience in the ambulatory setting, the NCPDP SCRIPT Standard was not proven to support the workflows and legal responsibilities in the long-term care setting. As such, we exempted entities from the requirement to use the NCPDP SCRIPT standard when that entity is required by law to issue a prescription for a patient to a non-prescribing provider (such as a nursing facility) that in turn forwards the prescription to a dispenser. The CY 2006 pilot project tested for such entities' use of the foundation standards in ''three-way prescribing communications'' between facility, physician, and pharmacy. (For a more detailed discussion see the November 7, 2005 final rule (70 FR 67583).

b. Use of HL7 or NCPDP SCRIPT Standard To Conduct Internal Electronic Transmittals for Specified NCPDP SCRIPT Transactions

In the E-Prescribing and the Prescription Drug Program final rule, published November 7, 2005 (70 FR 67568), we responded to comments on whether Medicare Part D plans should be required to use the standards for e-prescribing transactions taking place within their own enterprises. In the final rule we stated that entities may use either HL7 or NCPDP SCRIPT standards to conduct internal electronic transmittals for the specified NCPDP SCRIPT transactions. However, entities are required to use the NCPDP SCRIPT Standard if they electronically send prescriptions for Medicare beneficiaries outside the organizations, such as to a non-network pharmacy. Any pharmacy that already accepts e-prescriptions, even if only as a part of a larger legal entity, must be able to receive electronic prescription transmittals for Medicare beneficiaries via NCPDP SCRIPT from outside the enterprise.

c. Exemption for Computer-Generated Facsimiles

The November 7, 2005 final rule also exempted entities that transmit prescriptions or prescription-related information by means of computer-generated facsimile (faxes) from the requirement to use the adopted NCPDP SCRIPT standard. ''Electronic media'' was already defined by regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), so e-prescribing utilized the same definition. As a result, faxes that were generated by a prescriber's computer and sent to a dispenser's computer or fax machine which prints out a hard copy of the original computer-generated fax (that is, ''computer-generated'' faxes) fell within the definition of ''electronic media'' for e-prescribing. Absent an exemption, computer-generated faxes would be required to comply with the adopted foundation standards. The November 7, 2005 final rule exempted computer-generated faxes from having to comply with the NCPDP SCRIPT standard.

In June 2007, CMS proposed to eliminate this exemption. See 72 FR 38195 through 38196 for a discussion of the elimination of this exemption.

2. Updating e-Prescribing Standards

In the November 7, 2005 final rule (70 FR 67579), we discussed the means for updating e-prescribing standards. If an e-prescribing transaction standard has also been adopted under 45 CFR parts 160 through 162 (that is, as HIPAA transaction standards), the updating process for the e-prescribing transaction standard must be coordinated with the maintenance and modification of the applicable HIPAA transaction standard. As the final rule adopted and incorporated by reference the relevant HIPAA transaction standards (the ASC X12N 270/271 and the NCPDP Telecommunication Standard), the e-prescribing standards can be modified through a parallel rulemaking whenever the HIPAA transaction standards are modified. A streamlined process was created for updating adopted e-prescribing standards that were not also HIPAA transaction standards. This is done by identifying backward compatible later versions of the standards. This version updating and maintenance of the implementation specifications for the adopted non-HIPAA e-prescribing standards will allow for the correction of technical errors, the elimination of technical inconsistencies, and the addition of functions that support the specified e-prescribing transaction. To do this, we adopted a process for the Secretary to identify a subsequent version(s) of a standard where the new version(s) are backwards compatible with the adopted standard. Use of such subsequent versions of an adopted standard is voluntary. Because HIPAA transaction standards are presently not backward compatible and the HIPAA transactions standards regulation does not currently address the use of subsequent versions of adopted standards that are backward compatible to the adopted standards, the streamlined process cannot presently be used for those HIPAA transactions standards that are also e-prescribing standards.

Subsequent industry input indicated that the adopted NCPDP SCRIPT 5.0, should be updated with a later version of the standard NCPDP SCRIPT Standard, Implementation Guide, Version 8, Release 1 (Version 8.1), October 2005, excluding the Prescription Fill Status Notification Transaction (and its three business cases; Prescription Fill Status Notification Transaction—Filled, Prescription Fill Status Notification Transaction—Not Filled, and Prescription Fill Status Notification Transaction—Partial Fill), hereafter referred to as NCPDP SCRIPT 8.1.

Using the streamlined process, HHS published an Interim Final Rule on June 23, 2006 (71 FR 36020) updating the adopted NCPDP SCRIPT standard, thereby permitting either version to be used. For more information, see the June 23, 2006 interim final rule with comment (71 FR 36020).

3. National Provider Identifier (NPI)

In the November 7, 2005 final rule (70 FR 67578), we discussed the use of the National Provider Identifier (NPI) for the Medicare Part D e-prescribing program once it became available. The NPI is the standard that was adopted in the final rule published on January 23, 2004 (69

FR 3434) as the unique health identifier for health care providers that are HIPAA covered entities for use in the health care system. Health plans, health care clearinghouses, and those health care providers who transmit any health information in electronic form in connection with a transaction for which the Secretary has adopted a standard (known as ''covered health care providers'') are considered ''covered entities'' which must use the identifier in connection with HIPAA standard transactions. For a discussion of the NPI, see the final rule published on January 23, 2004 (69 FR 3434).

In the November 7, 2005 final rule (70 FR 67578), in response to comments received in the February 4, 2005 proposed rule, we indicated that we would include the NPI in the 2006 pilots to determine how it worked with e-prescribing standards. However, we also noted that accelerating NPI usage for e-prescribing might not be possible, as we might not have had the capacity to issue NPIs to all providers involved in the e-prescribing program by January 1, 2006. At the time the Request for Application was released, we had just begun to use the National Plan/Provider Enumeration System (NPPES) to process provider requests for NPIs. Upon reconsideration and in view of the short time period allowed for pilot testing, it was determined that the focus should be on standards testing and not on NPI as it would constitute a simple bench testing of the identifier and would have no substantive results. Therefore, NPI was not assessed during the pilots, which used other identifiers to accomplish their testing of the standards as outlined in the Request for Application.

C. Pilot Testing of Initial Standards

The MMA required the Secretary to develop, adopt, recognize or modify ''initial uniform standards'' relating to the requirements for the e-prescribing programs in 2005. To ensure the efficient implementation of the e-prescribing program requirements, the MMA called for pilot testing of these initial e-prescribing standards in 2006. To fulfill this requirement, the Secretary ultimately recognized (based on NCVHS input) six ''initial'' standards, which are discussed below. A Request for Applications (RFA) was issued in September 2005 that laid out the details for how these initial standards were to be pilot tested (Available through *http://www.grants.nih.gov/grants/guide/rfa-files/RFA-HS-06-001.html).* The pilot test was conducted under four cooperative agreements and one contract that the Agency for Healthcare Research and Quality (AHRQ) entered into on behalf of CMS. The final pilot site reports are available at *http://www.healthit.ahrq.gov/erxpilots.*

1. Initial Standards

[If you choose to comment on issues in this section, please include the caption ''Initial Standards'' at the beginning of your comments.]

As HHS had not yet published a final rule identifying the foundation standards at the time the RFA was published, it conditionally included the proposed foundation standards among the ''initial standards'' to be tested. Any proposed foundation standards that were not adopted as foundation standards were to be tested as initial standards in the pilot project. Furthermore, if the proposed foundation standards were ultimately adopted as foundation standards, those standards nevertheless were to be used in the pilot project to ensure interoperability with the initial standards. A summary of the initial standards follows:

- Formulary and benefit information—The formulary and benefits standard, NCPDP Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0 (version 1.0), hereinafter referred to as the NCPDP Formulary and Benefits Standard 1.0, is intended to provide prescribers with information from a plan about a patient's drug coverage at the point of care.
- Exchange of medication history—The medication history standard, included in the National Council for Prescription Drug Programs (NCPDP) Prescriber/Pharmacist Interface SCRIPT Standard, Version 8 Release 1 and its equivalent NCPDP Prescriber/Pharmacist Interface SCRIPT Implementation Guide, Version 8, Release 1, is intended to provide a uniform means for prescribers and payers to communicate about the list of drugs that have been dispensed to a patient.
- Structured and Codified SIG—The standard tested was NCPDP's proposed Structured and Codified SIG Standard 1.0. Structured and Codified SIG—instructions for taking medications (such as ''by mouth, three times a day'')—that are currently expressed as free text at the end of a prescription.
- Fill status notification function—The Fill Status Notification, or RxFill, was included in the NCPDP SCRIPT 5.0, and the updated NCPDP SCRIPT 8.1 but it previously was not proposed as a foundation standard due to lack of industry experience. The dispenser uses the prescription fill status transaction to notify the prescriber if a patient has picked up a prescribed medication at the pharmacy.
- Clinical drug terminology (RxNorm)—RxNorm, a standardized nomenclature for clinical drugs developed by the National Library of Medicine (NLM), provides standard names for clinical drugs (active ingredient + strength + dose form) and for dose forms as administered to a patient.
- Prior authorization messages—The pilot sites tested to determine the functionality of new versions of the ASC X12N 275, Version 4010 with HL7 and ASC X12N 278, Version 4010A1 to obtain certification from the plan to a provider that the patient meets criteria for a drug to be covered.

The RFA also specified that pilot sites would use NCPDP SCRIPT 5.0. With the Secretary's recognition of the updated NCPDP SCRIPT 8.1, AHRQ, in its capacity as the administrator of the pilot project, gave pilot sites the option to voluntarily use NCPDP SCRIPT 8.1. Accordingly, all grantees/contractor in the pilot sites voluntarily employed the updated NCPDP SCRIPT 8.1 in their various testing modalities.

2. Grantees/Contractor and Testing Criteria

[If you choose to comment on issues in this section, please include the caption ''Grantees/Contractor and Testing Criteria'' at the beginning of your comments.]

The initial standards were tested in five healthcare/geographic settings to determine whether they were ready for broad adoption. Grantees/contractor tested whether the initial standards allowed participants to effectively communicate the necessary information between all participants in the transactions, such as the pharmacy, pharmacy benefits manager (PBM), router, plan and prescriber. They also tested how the initial standards worked with the foundation standards. Pilot sites also tracked generally anticipated e-prescribing outcomes, such as a reduction in medical errors. For more information on testing parameters and criteria, go to *http://www.grants.nih.gov/grants/guide/rfa-files/RFA-HS-06-001.html.*

One of the strengths of the pilot project was the diversity and uniqueness of the five grantees/contractor. Grantees/contractor represented the spectrum of communities involved with e-prescribing, including most practice settings, and focused on utilization by pharmacists, physicians, nurses, and technology vendors. Applications were considered based on specific

characteristics/criteria. Each pilot site focused on different perspectives of the functionality and impact of initial standards by evaluating them in different sectors of the healthcare system, different geographies, and different practice settings using different technology application vendors, pharmacies and other stakeholders in the e-prescribing industry. The grantees selected were Achieve Healthcare Information Technologies, L.L.P., Eden Prairie, Minnesota; Brigham and Women's Hospital, Boston, Massachusetts; RAND Corporation, Santa Monica, California; SureScripts, L.L.C., Alexandria, Virginia. The contractor that was selected was the University Hospitals Health System, Cleveland, Ohio. For more information on the pilot project criteria, refer to the Request for Application at *http://www.grants.nih.gov/guide/RFA–HS–06–001.html.*

3. Pilot Test Findings

[If you choose to comment on issues in this section, please include the caption ''Pilot test findings'' at the beginning of your comments.]

a. Standard for Formulary and Benefits

In the February 4, 2005 proposed rule, we discussed how the adoption of the formulary and benefit standard would enhance e-prescribing capabilities under Medicare Part D by making it possible for the prescriber to obtain information on the patient's benefits, including the formulary status of drugs that the physician is considering prescribing. At that time, we proposed characteristics for a formulary and benefit standard (for a more detailed discussion refer to 70 FR 6262 through 6263). We proposed that if those characteristics for formulary were met by a standard and there was adequate industry experience with it, we would consider adopting it as a foundation standard. The NCVHS, in a September 2, 2004 letter to the Secretary (*http://www.ncvhs.hhs.gov*), had recommended the development of an NCPDP formulary and benefit standard, based on an RxHub protocol, to address the need for these desirable characteristics. RxHub submitted this protocol to NCPDP for approval and it was included in the October 2005 release of NCPDP Formulary and Benefit standard 1.0. However, the timing of its release in October 2005 was too late for the Formulary and Benefit standard 1.0 to be considered for approval as a foundation standard in the November 7, 2005 final rule. Also, there was little to no industry experience with the standard. Because of this and other concerns about its interoperability with other standards, at that time we did not adopt NCPDP Formulary and Benefit standard 1.0 as a foundation standard, but agreed to include it in pilot testing. For more details, refer to 70 FR 67573.

Formulary and benefits data standards must provide a uniform means for pharmacy benefit payers (including health plans and PBMs) to communicate a range of formulary and benefit information to prescribers via point-of-care (POC) systems. These include:

- General formulary data (for example, therapeutic classes and subclasses);
- Formulary status of individual drugs (that is, which drugs are covered);
- Preferred alternatives (including any coverage restrictions, such as quantity limits and need for prior authorization); and
- Copayment (the copayments for one drug option versus another).

The NCPDP Formulary and Benefits Standard 1.0 enables the prescriber to consider this information during the prescribing process, and make the most appropriate drug choice without extensive back-and-forth administrative activities with the pharmacy or the health plan.

The NCPDP Formulary and Benefits Standard 1.0 was implemented live in all pilot sites, and technology vendors were certified prior to production. This standard works in tandem with the eligibility request and response (ASC X12N 270/271). Once the individual is identified, the appropriate drug benefit coverage is located and transmitted to the requestor.

The pilot sites demonstrated that the NCPDP Formulary and Benefits Standard 1.0 can be successfully implemented between prescriber and plan. The NCPDP Formulary and Benefits Standard 1.0 is quite broad, and there are a number of complex data relationships supported by the standard. This complexity creates a certain level of confusion as to how to properly use the data and leads to implementation issues. While complex, the standard can support the transaction, and is ready for implementation as part of the e-prescribing program under Medicare Part D.

Formularies by their very nature are complex. They consist of hundreds of pages of drug names, dosages, etc., that frequently change due to updates in formulations, coverage decisions, etc. In addition, each drug plan has their own formulary that they use for coverage purposes. Coverage of benefits is sometimes a fluid issue; coverage can change from day to day, depending, for example, as to whether a Medicare Part D beneficiary has met out-of-pocket spending thresholds, or has experienced a life-changing situation that might affect their benefit delivery for example, entering a long-term care facility). Adoption of this standard for formulary and benefits transactions between plans and providers may deliver added value in approximating patients' drug coverage and lead to patient-specific, real-time benefit information.

b. Standard for Medication History

A medication history standard provides a way for prescribers, dispensers, and payers to communicate about a listing of drugs that have been prescribed or claimed for a patient within a certain timeframe. It may provide information that would be of use in helping to identify drug interactions, including the dispensing pharmacy and the prescribing physician. This standard is relatively mature and widely adopted by the prescribing industry. It has been useful in preventing medication errors, as well as understanding medication management compliance. Results demonstrate there is a difference in how the standard is implemented based on the source of the medication history.

In the February 4, 2005 proposed rule, we discussed how the adoption of the medication history standard would enhance e-prescribing capabilities under Medicare Part D by making it possible for the prescriber to obtain information on the medications the patient is already taking, including those prescribed by other providers. At that time, we proposed characteristics for a medication history standard (for a more detailed discussion refer to 70 FR 6262 through 6263). We proposed that if those characteristics for medication history were met, and there was adequate industry experience with them, we would consider adopting foundation standards. The NCVHS, in a September 2, 2004 letter to the Secretary (*http://www.ncvhs.hhs.gov*), had recommended the rapid development of an NCPDP medication history standard based on an RxHub protocol. The NCPDP SCRIPT standard 8.1, based on the RxHub protocol, was released in October 2005, featuring those desirable characteristics. However, the timing of its release in October 2005 was too late for the standard to be considered for approval as a foundation standard in the November 7, 2005 final rule, and there was little to no industry experience with the standard. Because of this and other concerns about its interoperability with other standards, at that time we did not adopt the NCPDP SCRIPT standard as a foundation standard for medication history, but agreed to include it in pilot

testing. For more details, refer to 70 FR 67573.

The pilot sites found that the proposed medication history standard included as a transaction in the NCPDP SCRIPT 8.1 is well structured, supports the exchange of information, would not impose an undue administrative burden on prescribers and dispensers, is compatible with other health IT standards, and is ready to be used as part of the e-prescribing program under Medicare Part D.

c. Standard for Structured and Codified SIG

Patient instructions for taking medications are placed at the end of a prescription. These are called the *signatura,* commonly abbreviated SIG. Currently, the Food and Drug Administration (FDA) provides some terminology for SIGS, for example, route of administration and unit of presentation. However, there is no standardized format or vocabulary for SIGs, leaving room for misinterpretation and error. A standard structure and code set for expressing SIGs has the potential to enhance patient safety, although free text capability must be preserved for special circumstances. Pilot sites used a variety of approaches including review of the proposed NCPDP Structured and Codified SIG standard 1.0, identification of test cases, using live transactions and selecting samples of prescriptions with a wide variety of SIGs, recreating each test case in a laboratory environment, and then developing a test harness that would include functions of an electronic information exchange application. Another approach was to analyze an initial sample that would be statistically valid with an attempt to represent each distinct SIG using the proposed standard's 128 data fields.

The pilot sites found that the proposed Structured and Codified SIG format needs additional work with reference to field definitions and examples, field naming conventions and clarifications of field use. It is imperative that the prescriber's instructions be translated exactly into e-prescribing and pharmacy practice management systems to reduce medication errors, decrease healthcare costs and improve patient safety. Contradictions with other structured fields exist, and there are limitations on directions for topical drugs (such as the area of application). The *pro re nata* (PRN) or ''as needed'' designation could be interpreted as either ''as needed'' or ''as required'', and the standard does not allow for quick revisions for new drug administration. Mistranslations and contradictions in dosage/timing directions leave room for misinterpretation and error. Analysis shows that the NCPDP's proposed Structured and Codified SIG Standard 1.0 is not sufficiently developed for use for Medicare Part D e-prescribing in its current state.

d. Standard for Fill Status Notification

The Fill Status Notification standard is a function within the NCPDP SCRIPT 8.1, but it was not named a foundation standard due to lack of adequate industry experience. The standard enables a pharmacy to notify a prescriber when the prescription has been dispensed (medication picked up by patient), partially dispensed (partial amount of medication picked up by the patient), or not dispensed (medication not picked up by patient, resulting in the medication being returned to stock).

Pilot sites found that the NCPDP SCRIPT 8.1 standard supports the activities of a pharmacy sending messages to the prescriber as to the status of a prescription. The challenges encountered were not related to the structure and format of the standard, but in its implementation. RxFill is intended to encourage adherence and compliance with medication therapy. Although the transaction is technically capable of performing that function, the pilot sites' experiences and observations indicate there is no marketplace demand for this information, and may cause an unnecessary administrative burden on prescribers and dispensers. Prescribers expressed concerns about being inundated with data if they were informed every time a prescription was filled or not filled, and were unsure of the usefulness of the information. Moreover, implementing the Fill Status transaction would require significant business process changes at pharmacies as well as development of common rules for determining when a prescription becomes a ''no-fill.'' We question the marketplace demand for Fill Status Notification and solicit comments regarding both stakeholders' and industry's potential utilization of RxFill.

e. Standard for Clinical Drug Terminology: RxNorm

RxNorm is a vocabulary resulting from a collaboration between the Food and Drug Administration (FDA) and the National Library of Medicine (NLM) that provides standard names for clinical drugs (active ingredient + strength + dose form), and for dose forms as administered to a patient. These concepts are relevant to how a physician would order a drug. It provides links from clinical drugs, both branded and generic, to their active ingredients, drug components (active ingredient + strength), and related brand names. NDCs (National Drug Codes) for specific drug products (where there are often many NDC codes for a single product) are linked to that product in RxNorm. NDCs for specific drug products identify not only the drug but also the manufacturer and the size of the package from which it is dispensed. NDCs are relevant to how a pharmacy would dispense the drug. RxNorm links its names to many of the drug vocabularies commonly used in pharmacy management and drug interaction software. By providing links between these vocabularies, RxNorm can mediate messages between systems not using the same software and vocabulary.

RxNorm terminology was evaluated in the context of the NCPDP SCRIPT 8.1 for new prescriptions, renewals, and changes. RxNorm was included in the pilot to determine how well the RxNorm information can be translated from the prescriber's system to the dispenser's system while maintaining the prescriber's intent. The grantees/contractor tested this standard in a laboratory setting, specifically to gain understanding of the completeness and accuracy of RxNorm.

The pilot sites demonstrated that RxNorm has significant potential to simplify e-prescribing, create efficiencies, and reduce dependence on NDCs among dispensers. It was able to represent both new prescriptions and renewal requests. In some testing, RxNorm erroneously linked some NDCs to lists of ingredients rather than to the drugs themselves. Testing also revealed cases in which the NDC codes linked by RxNorm did not match to a semantic clinical drug (SCD), which always contains the ingredient(s), strength and dose form, in that order. This indicates there was either an error in matching to the correct RxNorm concept, or an error with RxNorm itself, with more than one term being available for the same clinical drug concept (that is, unresolved synonymy). There is currently no central repository containing a list of all NDC codes, nor a reference guide that indicates all of the NDCs associated with a particular drug. (On August 29, 2006, FDA published a proposed rule [71 FR 51276] which would result in the creation of an electronic drug registration and listing system for which FDA would issue all NDCs, registrants would be required to keep information up to date, and there would be a centralized electronic repository for these NDCs. Through the Structured Product Labeling (SPL) for

each marketed drug product, the NDCs would be linked to the drug product code, proprietary name, established name of the active ingredients, Unique Ingredient Identifiers [UNII], active ingredient strengths and pharmaceutical dosage form.) As with other vocabulary standards, RxNorm will never cover 100 percent of what is needed in every circumstance, so some provisions for exceptions will be needed. One example encountered in the pilots was the lack of standard names and identifiers for pharmacy-compounded drugs. Analysis shows that, as of December 2006, RxNorm was not sufficiently developed for effective and accurate use for Medicare Part D e-prescribing.

f. Standard for Prior Authorization

The prior authorization standard incorporates real-time prior authorization functionality in the ASC X12N 278 Version 4010A1 Health Care Services Review transaction. Originally there were two models that were to be considered, solicited (prescriber proactively solicits prior authorization criteria/forms from plan) and unsolicited (questions appear via prompts on a point-of-care software system). The solicited model is rarely used and usually results in a paper-based response, versus the unsolicited model which employs e-prescribing technology. Upon consultation between the pilot sites and AHRQ as the administrator of the pilot project, AHRQ advised that the pilot sites use the unsolicited model using the NCPDP Formulary and Benefits Standard 1.0 specification as it would provide a better test of prior authorization in an e-prescribing environment.

Prior authorization is a very complex standard to implement, necessitating an understanding of four different standards and multiple payer requirements. The combination of ASC X12N 278, ASC X12N 275 and the HL7 prior authorization (PA) attachment is cumbersome, confusing and requires expertise that may limit adoption. Because health plans typically require prior authorization only for a small subset of drugs, the pilot sites had limited live experience with this standard. Nevertheless, they pilot tested the ASC X12N 278 version 4010A1 and ASC X12N 275 version 4010 with the HL7 PA attachment and identified several issues that need to be addressed before this standard should be adopted as an e-prescribing final standard, including some inconsistencies between ASC X12N 278 Version 4010A1 and ASC X12N 275 Version 4010 that need to be addressed. Investigators agreed that the HIPAA-named prior authorization standard—the ASC X12N 278 version 4010A1—was not adequate to support prior authorization because it was designed for service or procedure prior authorizations, not for medication prior authorization. One of the challenges of the ASC X12N 275 version 4010 with the HL7 PA attachment is that it did not allow vendors to make questions mandatory, which would ensure that the information required is complete and reduce the need for back-and-forth communication that takes place between plan prior authorization representatives and prescribers. Standards modifications would need to be made prior to adoption as a final standard for the Medicare Part D e-prescribing program.

g. Use of Standards in the Long-Term Care (LTC) Setting

Healthcare Delivery in long-term care (LTC) settings is unique for several reasons. Nurses are frequently the primary caregivers, with off-site physicians who monitor care; specialized long-term care pharmacies are located off-site with drugs being delivered to the facility. While the participants in the Achieve study were drawn from a convenience sample, the setting provided a special opportunity for understanding e-prescribing's impact on an entirely different patient population, provider type, and prescription delivery system.

In long-term care, a prescription order typically remains an open order with no end date or a date far in the future. A prescriber may need to modify this order and notify the pharmacy. Changes might include dose, form, strength, route, modifications of frequency, or a minor change related to the order. Also, in the long-term care environment, there is a need to send a refill request from a facility to a pharmacy. An example is when a medication supply for a resident is running low (2–3 doses remaining), and a new supply is needed from the pharmacy. The facility needs a way to notify the pharmacy that a refill for the medication is needed. E-prescribing was evaluated within the unique context of long-term care workflow from facility to pharmacy.

The primary purpose of the long-term care pilot site was to test the NCPDP SCRIPT 8.1 in the long-term care setting and found that modifications were required in order to ensure accurate transmission of the data. Through partner agreement, ''work-arounds'' were identified and implemented. These work-around requests were formally submitted by the pilot site grantee to NCPDP in the form of a DERF (Data Element Request Form) to modify the standard as needed. When an updated version of the NCPDP SCRIPT Standard becomes available that can accommodate the unique prescription workflow of the LTC setting, we will consider removing the current exemption. We solicit industry and other interested stakeholder comments on the impact and timing of lifting this exemption.

II. Provisions of the Proposed Rule

A. Proposed Retirement of NCPDP SCRIPT 5.0 and Adoption of NCPDP SCRIPT 8.1 as a Final Standard

[If you choose to comment on issues in this section, please include the caption ''Adoption of NCPDP SCRIPT 8.1'' at the beginning of your comments.]

We propose to revise § 423.160(b)(1) to replace the NCPDP SCRIPT 5.0 standard with the NCPDP SCRIPT 8.1. Those providers and dispensers using e-prescribing to provide for the electronic communication of a prescription or prescription-related information would be required to use the NCPDP SCRIPT 8.1 for the following transactions:

- Get message transaction.
- Status response transaction.
- Error response transaction.
- New prescription transaction.
- Prescription change request transaction.
- Prescription change response transaction.
- Refill prescription request transaction.
- Refill prescription response transaction.
- Verification transaction.
- Password change transaction.
- Cancel prescription request transaction.
- Cancel prescription response transaction.

On June 23, 2006, we published an interim final rule with comment (71 FR 30620) to solicit comments as to whether the NCPDP SCRIPT 8.1 was a backward compatible update to NCPDP SCRIPT 5.0. We received 5 timely public comments on this interim rule with comment. The comments came from a standards setting organization, two national industry associations, and two private corporations actively involved in e-prescribing. All commenters supported the voluntary use of the backward compatible Version 8.1 of the NCPDP SCRIPT Standard. Four recommended that it be adopted as soon as reasonably possible, and that Version 5.0 be retired as soon as reasonably practical. They also indicated that Version 8.1 was already in widespread use throughout their

respective industries. One commenter indicated a concern with making backward compatibility ''the criteria'' for determining if a notice and comment rulemaking is required. That commenter felt that backward compatibility must be viewed as just one factor in making a determination to update, as opposed to modify, a standard.

We continue to find that the NCPDP SCRIPT 8.1 is backward compatible to the adopted NCPDP SCRIPT 5.0. Both versions are the same, except that Version 8.1 contains the additional feature of medication history. One commenter expressed that it has been their experience that, while capable of processing Version 5.0, the industry is already implementing Version 8.1, and that few, if any, of their trading partners are using Version 5.0. This is supported by industry reports that numerous software systems now using Version 8.1 have been certified for use by electronic prescribing networks.

Regarding the comment that backward compatibility should not be the sole criterion for determining whether use of a subsequent version requires an update or a modification of an e-prescribing standard, we note that it is not the sole criterion. The ''backward compatibility'' of a subsequent version of an adopted standard simply indicates that entities may voluntarily upgrade their systems with the subsequent version that is ''backward compatible,'' and still be compliant with the adopted standard. With the backward compatible version, entities may conduct transactions with other entities that continue to use the adopted version of the standard with no deleterious effect on the transmission of information or the transaction itself. We also note that we are required by law to employ notice and comment rulemaking to modify an adopted standard or when entities would be required to transition to a subsequent version. Through the rulemaking process, we must notify the public as to the proposed modifications, receive public comment on our proposals, and take into consideration an analysis of factors such as the modification's impact on affected entities relative to cost, benefit projections, productivity, etc., as well as industry and stakeholder feedback provided by means of the written comment process. We are soliciting comments regarding the retirement of Version 5.0 and the adoption of Version 8.1 as the adopted standard for the e-prescribing functions outlined in 42 CFR 423.160(b)(1), and based on the proposed compliance date described in section II.E. of this proposed rule.

B. Proposed Adoption of an E-Prescribing Standard for Medication History Transaction

[If you choose to comment on issues in this section, please include the caption ''Medication History'' at the beginning of your comments.]

In the Foundation Standards final rule, 70 FR 67568, we discussed the need for medication history standards, and that we were unaware of any standard for these transactions that clearly met the criteria for adequate industry experience. As a result, a standard for medication history was tested in the 2006 pilot project.

The NCVHS noted in its September 2, 2004 letter to the Secretary that medication history information was communicated between payers and prescribers using proprietary messaging standards, frequently the Information File Transfer protocols established by RxHub, a national formulary and benefits information exchange. The NCVHS recommended that HHS actively participate in and support the rapid development of an NCPDP standard for formulary and medication history using the RxHub protocol as a basis. In September 2005, RxHub announced that its propriety data transaction format for Medication History which they had submitted to NCPDP, had been approved and incorporated into the NCPDP Script Standard, and approved by the American National Standard Institute (ANSI). NCVHS considered ANSI accreditation to be one criterion in their recommendation process for adoption of e-prescribing standards, and HHS adopted this as a criterion for determining adequate industry experience. (See 70 FR 67568, 67577 for a discussion of all the criterion considered by NCVHS.) The resulting NCPDP SCRIPT standard was recognized by the Secretary as an initial standard, then pilot tested in accordance with the MMA.

The pilot sites demonstrated that the standard can be successfully implemented among a variety of e-prescribing partners and, while complex, the standard can support the Medication History transaction, and is ready for implementation under Medicare Part D.

If NCPDP SCRIPT 8.1 is adopted in place of NCPDP SCRIPT 5.0 at § 423.160(b)(1) as proposed above, we also propose to add § 423.160(b)(3) to adopt the NCPDP SCRIPT 8.1 for electronic medication history transactions among the plan sponsor, prescriber, and the dispenser when e-prescribing for covered Medicare Part D drugs for Medicare Part D eligible individuals. The medication history transaction in the NCPDP SCRIPT 8.1 standard is based on the proprietary file transfer protocol developed by RxHub, which is currently being used to communicate this information in many e-prescribing products.

Adoption of the NCPDP SCRIPT 8.1 standard for the medication history transaction will provide a uniform communications mechanism for prescribers, dispensers and payers, support reconciliation of useful data from a large number of sources, and raise awareness of its availability and use among providers. Cost savings to the public will be generated based on reductions in the number of preventable adverse drug events (ADEs). Significantly, systems that utilize this proposed transaction in the NCPDP SCRIPT 8.1 standard will be substantially more effective at ADE reduction than those merely utilizing the original foundation standards by allowing prescribers to see what medications have been prescribed by other providers in the past.

C. Proposed Adoption of an E-prescribing Standard for Formulary and Benefit Transactions

[If you choose to comment on issues in this section, please include the caption ''formulary and benefit transactions'' at the beginning of your comments.]

As a result of pilot testing, we are proposing to add § 423.160(b)(4) to adopt the NCPDP Formulary and Benefit Standard 1.0, for the transaction of communicating formulary and benefit information between the prescriber and the plan sponsor when e-prescribing for covered Medicare Part D drugs for Medicare Part D eligible individuals. This standard is based on a proprietary file transfer protocol developed by RxHub, which is currently being used to communicate this information in many e-prescribing products. The RxHub protocols were submitted to NCPDP for accreditation, and the resulting standard was recognized by the Secretary as an initial standard and pilot-tested in accordance with the MMA.

The NCPDP Formulary and Benefits Standard 1.0 was implemented live in all pilot sites. This standard works in tandem with the eligibility request and response (ASC X12N 270/271). Once the individual is identified, the appropriate drug benefit coverage is located and transmitted to the requestor.

The pilot sites demonstrated that the NCPDP Formulary and Benefits Standard 1.0 can be successfully

implemented among a variety of e-prescribing partners, and while complex, the standard can support the transaction, and is ready for implementation under Medicare Part D.

Adoption of this standard for formulary and benefits transactions between plan sponsors and prescribers may deliver added value in approximating patients' drug coverage and lead to patient-specific, real-time benefit information. The NCPDP Formulary and Benefits Standard 1.0 enables the prescriber to consider this information during the prescribing process, and make the most appropriate drug choice without extensive back-and-forth administrative activities with the pharmacy or the plan sponsors. As prescribers prescribe based on the coverage offered by a patient's plan formulary, plans will experience reduced costs through paying for drugs that are specific to their formularies for which they have negotiated favorable rates. Patients will see reduced costs in not having to pay increased out-of-pocket expenses for prescribed drugs that are not on their plan's formularies.

D. Adoption of the National Provider Identifier (NPI) as a Standard for Use in E-Prescribing Transactions

[If you choose to comment on issues in this section, please include the caption ''Adoption of the National Provider Identifier'' at the beginning of your comments.]

We are proposing to add § 423.160(b)(5) to adopt the National Provider Identifier as a standard for use in e-prescribing transactions among the plan sponsor, prescriber, and the dispenser. The NCPDP SCRIPT standard 8.1, which we are proposing for adopting in this proposed rule, supports the use of NPI.

While the NPI was not tested in the pilot project, we have reason to believe that there is adequate industry experience with the NPI which would support its use in e-prescribing transactions under section 1860D–4(e)(4)(C)(ii). Use of the NPI is already required in order to conduct HIPAA-compliant transactions which require the identity of HIPAA covered health care providers; and the compliance date for the NPI, May 27, 2007, has already passed. The NPI is in widespread use by HIPAA covered entities in HIPAA transactions. Although the NCPDP SCRIPT transaction is not a HIPAA transaction, the prescribers and dispensers that conduct it would be HIPAA covered entities, and as such, they would already be using NPI as they conduct their HIPAA transactions. They would, therefore, already be familiar with the NPI, even though they may not currently use it in the NCPDP SCRIPT transaction. Furthermore, NPI meets the objectives and design criteria laid out at section 1860D–4(e)(3) of the Act, so adoption of the NPI for use in e-prescribing standards is supported by section 1860D–4(e)(3)(A) of the Act as well. Finally, as uniform identifiers are necessary to conduct electronic transactions such as those in the e-prescribing program, adoption of NPI is also supported by section 1102 of the Act.

We generally solicit comments from the industry and other stakeholders on the adoption of NPI as an e-prescribing standard, and we specifically request comments as to whether use of the NPI in HIPAA-compliant transactions constitutes adequate industry experience for purposes of using NPI as a covered health care provider identifier in Medicare Part D e-prescribing transactions.

E. Proposed Compliance Date

In accordance with section 1860D–4(e) of the Act, the Secretary must issue certain final uniform standards for e-prescribing no later than April 1, 2008, to become effective not later than 1 year after the date of their promulgation. Therefore, in accordance with this requirement, the Secretary proposes a compliance date of 1 year after the publication of the final uniform standards. The Secretary also proposes adopting NCPDP SCRIPT 8.1 as the e-prescribing standard for the transactions listed in section III. C. of this proposed rule, effective 1 year after the publication of the final uniform standards. We solicit comments regarding the impact of these proposed dates on industry and other interested stakeholders and whether an earlier compliance date should be adopted.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency.
- The accuracy of the agency's estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements.

Standards for an Electronic Prescribing Program (§ 423.160)

The emerging and increasing use of health care electronic data interchange (EDI) standards and transactions have raised the issue of the applicability of the PRA. It has been determined that a regulatory requirement mandating the use of a particular EDI standard constitutes an agency-sponsored third-party disclosure as defined under the PRA.

As a third-party disclosure requirement subject to the PRA, Medicare Part D sponsors offering qualified prescription drug coverage must support and comply with electronic prescription standards relating to covered Medicare Part D drugs, for Medicare Part D enrolled individuals as would be required under § 423.160.

However, the requirement that Medicare Part D sponsors support electronic prescription drug programs in accordance with standards set forth in this section, as established by the Secretary, does not require that prescriptions be written or transmitted electronically by prescribers or dispensers. After the promulgation of this set of final standards, these entities will be required to comply with the proposed standards only if they transmit prescription information electronically as discussed in section 1860D–4(e)(1) and (2) of the Act.

Testimony presented to the NCVHS indicates that most health plans/PBMs currently have e-prescribing capability either directly or by contracting with another entity. Therefore, we do not believe that conducting an electronic prescription drug program would be an additional burden for those plans. We solicit industry and other interested stakeholder comments and input on this issue.

Since these standards are already familiar to industry, we believe the requirement to adopt them constitutes a usual and customary business practice and the burden associated with the requirements is exempt from the PRA as stipulated under 5 CFR 1320.3(b)(2).

As required by section 3504(h) of the Paperwork Reduction Act of 1995, we have submitted a copy of this document to OMB for its review of these information collection requirements.

If you comment on any of these information collection requirements, please mail copies directly to the following: Centers for Medicare & Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Attn: William Parham, III, CMS–0016–P, Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850; and Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. Attn: Carolyn Lovett, CMS Desk Officer, CMS–0016–P, *Carolyn_lovett@omb.eop.gov.* Fax: (202) 395–6974.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a final rule, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Analysis

[If you choose to comment on issues in this section, please include the caption ''Regulatory Impact Analysis'' at the beginning of your comments.]

We have examined the impacts of this rule as required by Executive Order 12866 of September 30, 1993, as further amended; the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995, Pub. L. 104–4); and Executive Order 13132 of August 4, 1999.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties, and further amended by Executive Order 13422) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). According to Executive Order 12866, a regulatory action may reasonably be ''significant'' if it meets any one of a number of specified conditions, including if the action may reasonably be anticipated to lead to:

- An annual effect on the economy of $100 million or more, adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- A serious inconsistency or otherwise interfering with an action taken or planned by another agency;
- Material alteration in the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

This proposed rule is anticipated to have an annual benefit on the economy of $100 million or more and will have ''economically significant effects.'' We believe that prescribers and dispensers that are now e-prescribing have already largely invested in the hardware, software and connectivity necessary to e-prescribe. We do not anticipate that the proposed modification of the NCPDP SCRIPT 5.0 to the NCPDP SCRIPT 8.1 at § 423.160(b)(1), the adoption of NCPDP SCRIPT 8.1 for the Medication History transaction, the adoption of the NCPDP Formulary and Benefit Standard 1.0 for formulary and benefit transactions, and the adoption of NPI for use in e-prescribing transactions will result in significant costs. We solicit industry and other interested stakeholder comments and input on this issue. We anticipate that the ability to utilize electronic formulary and benefit inquiries will result in administrative efficiencies and increased prescribing of generic drugs versus brand name drugs, and the access to medication history at the point of care will result in reduced adverse drug events (ADEs). The benefits accruing from these transactions will have an economically significant effect on Medicare Part D program costs and patient safety. As this is a significant rule under Executive Order 12866, we are required to prepare a regulatory impact analysis (RIA) for this rule.

The Regulatory Flexibility Act (RFA) requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by qualifying as small businesses under the Small Business Administration's size standards (revenues of $6.5 million to $31.5 million in any 1 year for the health care industry). States and individuals are not included in the definition of a small entity. For details, see the Small Business Administration's regulation that set forth the current size standards for health care industries at *http://sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf* (refer to the 620000 series).

Based on our initial analysis, we expect this proposed rule will not have a significant impact on a substantial number of small entities because, while many prescribing physician practices and independent pharmacies would be small entities, e-prescribing is voluntary for prescribers and pharmacies. For prescribers and dispensers that have already implemented e-prescribing, the adoption of NCPDP SCRIPT 8.1 would in most cases be accommodated through software upgrades whose cost would already be included in annual maintenance fees. Medicare Part D sponsors are required to support e-prescribing, and would incur some costs to support the NCPDP Formulary and Benefit Standard 1.0 and the NCPDP SCRIPT 8.1 medication history transaction. However, using the SBA revenue guidelines, the majority of Medicare Part D plan sponsors would not be considered small entities as they represent major insurance companies with annual revenues of over $31.5 million. We also do not anticipate that the proposed requirement to use NPI in e-prescribing would have any effect on Medicare Part D plans, providers or dispensers as they are already using the NPI in HIPAA-covered transactions.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a core-bed Metropolitan Statistical Area and has fewer than 100 beds. This proposed rule would not affect small rural hospitals because the program will be directed at outpatient prescription drugs covered under Medicare Part D and not drugs provided during a hospital stay. Prescription drugs provided during hospital stays are covered under Medicare as part of Medicare payments to hospitals. Therefore, for purposes of our obligations under section 1102(b) of the Act, we are not providing an analysis.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires

Federal agencies to prepare written statements before promulgating any general notice of proposed rulemaking of any rule that includes a Federal mandate that could result in expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. Since only Medicare Part D plan sponsors are required to support e-prescribing, this proposed rule does not include any mandate that would result in this spending by State, local or tribal governments. We acknowledge that there may be transaction costs borne by payers and pharmacy benefit managers (PBMs), but, based on our analysis, they would fall below the $110 million threshold. We would expect that many Medicare Part D plan sponsors already support the exchange of formulary, benefits and medication history data, because the standards we are proposing are based on proprietary transactions developed by Rx-Hub, which are already in use in the current e-prescribing environment.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct costs on State and local governments, preempts State law, or otherwise has Federalism implications. Every State allows for the electronic transmission of prescriptions. In recent years, many States have more actively legislated in this area. The scope and substance of this State activity, however, varies widely among the States.[1] The MMA addresses preemption of State laws at section 1860D–4(e)(5) of the Act as follows:

(5) Relation to State Laws. The standards promulgated under this subsection shall supercede any State law or regulation that—

(A) Is contrary to the standards or restricts the ability to carry out this part; and

(B) Pertains to the electronic transmission of medication history and of information on eligibility, benefits, and prescriptions with respect to covered part D drugs under this part.

In the final rule (70 FR 67568 through 67594), we interpreted this section of the Act as preempting State law provisions that conflicted with Federal electronic prescription program drug requirements that are adopted under Medicare Part D. We viewed it as mandating Federal preemption of State laws and regulations that are either contrary to the Federal standards, or that restrict the ability to carry out (that is, stand as an obstacle to) the electronic prescription drug program requirements, and that also pertain to the electronic transmission of prescriptions or certain information regarding covered Medicare Part D drugs for Medicare Part D enrolled individuals.

Consequently, for a State law or regulation to be preempted under this express preemption provision, the State law or regulation would have to meet the requirements of both paragraphs (A) and (B). Furthermore, there would have to be a Federal standard adopted through rulemaking that creates a conflict for a State law to be preempted. This interpretation closely reflected the language of the statute, and it is consistent with the presumption against Federal preemption of State law [2] and with the fundamental Federalism principles set forth in section 2 of Executive Order 13132. It is also consistent with the Department of Health and Human Service's (HHS) general position of deferring to State laws regulating the practice of pharmacy and the practice of medicine.

In the final rule at 70 FR 67568 through 67594, we acknowledged that some industry representatives believed that the Congress intended this preemption provision to be much broader. For instance, some expressed the position that this statutory provision preempts all State laws that would in any way restrict the development of e-prescribing for all providers and payors. This position was based on the belief that the Congress intended to preempt the field of e-prescribing through this provision in the MMA. It would have required an interpretation that the word ''and'' between paragraphs (A) and (B) was disjunctive, that is, that ''and'' means ''or'' in this context. Under this interpretation, the operative language would be ''restricts the ability to carry out this part'' in paragraph (A), which arguably would have enabled the standards and requirements adopted for the Federal electronic prescription drug program to preempt all State laws and regulations that restricted the Secretary's ability to carry out the goals of an electronic prescription drug program, even if they were not related to covered Medicare Part D drugs, or Medicare Part D covered individuals. They contended that some States had existing statutory or regulatory barriers that could impede the success of e-prescribing; for example, laws and regulations that were drafted with only paper prescriptions in mind, which may not be well-suited to e-prescribing applications.

We determined that this interpretation did not comport with the use of the word ''contrary'' in the statutory language which generally establishes ''conflict preemption.'' This interpretation would seem to render paragraph (B) virtually meaningless and serve to establish ''field preemption.''

We invited public comment on our proposed interpretation of the scope of preemption, particularly with respect to relevant State statutes and regulations which commenters believe should be preempted, but would not under our proposed interpretation. We specifically asked for comment on whether this preemption provision applied only to transactions and entities that are part of an electronic prescription drug program under Medicare Part D or to a broader set of transactions and entities. We also asked for comment on whether this preemption provision applied to only electronic prescription transactions or to paper transactions as well. For the same reasons given above, we have determined that States would not incur any direct costs as a result of this proposed rule. However, as mandated by section 1860D–4(e) of the Act, and under the Executive Order, we are required to minimize the extent of preemption, consistent with achieving the objectives of the Federal statute, and to meet certain other conditions. We believe that, taken as a whole, this proposed rule would meet these requirements. We do seek comments from States and other entities on possible problems and on ways to minimize conflicts, consistent with achieving the objectives of the MMA, and will be undertaking outreach to States on these issues.

We have consulted with the National Association of Boards of Pharmacy directly and through participation in NCVHS hearings and we believe that the approach we suggested provides both States and other affected entities the best possible means of addressing preemption issues. We will consult further with States before issuing the final rule. This section constitutes the Federalism summary impact statement required under the Executive Order.

The objective of this regulatory impact analysis is to summarize the cost and benefits of implementing the standards we are proposing in this rule for the conversion from NCPDP SCRIPT 5.0 to NCPDP SCRIPT 8.1 at § 423.160(b)(1), the adoption of

[1] Catizone, Carmen A., National Association of Boards of Pharmacy, Testimony before the NCVHS, July 29, 2004.

[2] See *Davies Warehouse Co.* v. *Bowles*, 321 U.S. 144, 153, 64, S.Ct. 474, 88 L.Ed. 635 (1944), *Pharmaceutical Research and Manufacturers of America* v. *Walsh*, 538 U.S. 644, 661, 123 S.Ct. 1855, 1867, 155 L.Ed.2d 889 (2003).

standards for the electronic communication of formulary and benefit and medication history information, and the adoption of NPI for use in e-prescribing transactions. These proposed actions build upon the e-prescribing requirements published as a final rule on November 7, 2005 (70 FR 67568) which included adoption of three foundation standards for e-prescribing. The final rule contained an impact analysis that addressed the cost of those foundation standards, and it also discussed in concept the benefits of e-prescribing in general. In the e-prescribing final rule at 70 FR 67589, we noted that commenters suggested that the estimated start-up costs for e-prescribing could be at least $1,500 and perhaps exceed $2,000. For average e-prescribing software implementation, according to a 2003 CITL Report, ''The Value of Computerized Provider Order Entry,'' a basic-e-prescribing system cost $1,248 plus $1,690 for annual support, maintenance, infrastructure and licensing costs. The total first year cost averaged approximately $3,000. The Journal of Healthcare Information Management has published that physicians reported paying user-based licensing fees ranging from $80 to $400 per month, although we believe through anecdotal information that these licensing fees have decreased over time to between $300 and $800 annually. For further discussion of the start-up costs associated with e-prescribing, see the e-prescribing final rule at 70 FR 67589. This proposed rule builds on the final rule analysis, and we refer to it to assure that costs and benefits are not counted twice. We solicit industry and other interested stakeholder comment and input on this issue.

A. Overall Impact

According to 2006 CMS data, approximately 24 million beneficiaries were enrolled in a Medicare Part D plan, (either a stand-alone Prescription Drug Plan or a Medicare Advantage Drug Plan). Another 7 million retirees were enrolled in employer or union-sponsored retiree drug coverage receiving the Retiree Drug Subsidy (RDS); 3 million in Federal retiree programs such as TRICARE and the Federal Employees Health Benefits Plans (FEHBP) and 5 million receiving drug coverage from alternative sources, including 2 million who have coverage through the Veterans' Administration. The breadth of Medicare's coverage suggests that e-prescribing under Medicare Part D could impact virtually every pharmacy and a large percentage of the physician practices in the country. Standards established for Medicare Part D beneficiaries will, as a matter of economic necessity, be adopted by vendors of e-prescribing and pharmacy software, and as a result, would extend to other populations unless they are manifestly unsuited for the purpose. However, we note again that e-prescribing is voluntary for both prescribers and dispensers under the Medicare Part D electronic prescribing program.

Our pilot testing and industry collaboration activities were partially intended to prevent the development of multiple, ''parallel'' e-prescribing environments, with their attendant incremental costs. In general, we attempted to avoid imposing an undue administrative burden on prescribing health care professionals, dispensing pharmacies and pharmacists. The standards we are proposing here, like the foundation standards adopted previously, are maintained by an accredited standards development organization. These proposed standards have been shown through pilot testing to work effectively with the foundation standards.

B. Costs

Because e-prescribing is voluntary, we anticipate that entities who currently do not now e-prescribe and who will not implement e-prescribing during the period reflected in the regulatory impact analysis will incur neither costs nor benefits.

Entities that do not now e-prescribe, but that will implement e-prescribing during the period reflected in the regulatory impact analysis will incur the costs and benefits associated with the foundation standards (which we discussed in the final rule at 70 FR 67568), but we do not claim either in this analysis. We assume that implementation of the NCPDP SCRIPT standards would not significantly affect the implementation cost; that is, the cost to implement the foundation standards and these two standards is not significantly higher than the cost of implementing the foundation standards alone. However, these entities could incur some additional costs for the purchase of new e-prescribing products that include these two transactions in the standard format. They would also incur the benefits of the two proposed standards. We solicit industry and other interested stakeholder comment and input on these issues.

We assume that since these standards are new and not currently deployed and implemented in vendor products, that entities do not exist that e-prescribe now and who have software that conducts these two transactions using the NCPDP SCRIPT standards.

Entities that e-prescribe now using a software product that cannot conduct the two transactions and cannot be upgraded to conduct them (for example, stand-alone Microsoft Word-based prescription writers) are not required to conduct the two new transactions, and if they decide not to conduct them, they would incur neither cost nor benefit. However, if they decide to upgrade their entire e-prescribing system to take advantage of the benefits of these new transactions, they would incur costs. However, we have no clear sense of how many entities would fall into this category.

Entities that e-prescribe now using a product that could be upgraded to conduct the two transactions would incur no cost or benefit if they decide not to upgrade. This would also apply to entities that e-prescribe now using a product that can conduct the two transactions using nonstandard (Non NCPDP SCRIPT) formats, but the functionality is not used. Based on our research, this category likely is the one in which most current e-prescribers fall. If they decide to upgrade, they would incur the cost of the upgrade (unless the upgrade is included in their maintenance agreement) and any testing costs, and would incur the benefits of the two transactions.

Entities that e-prescribe now using a product that can conduct the two transactions using nonstandard formats, and who use the transactions would have to upgrade. They would not enjoy all the benefits of the two new transactions since they would have already been performing them in some manner, but definitely would incur cost savings due to the increased interoperability of using the NCPDP SCRIPT standards. In fact, any entity engaging in e-prescribing would incur benefits due to increased interoperability, as the existence of standards simplifies data exchange product selection and testing. We solicit industry and other interested stakeholder comment and input on these issues.

In the e-prescribing final rule at 70 FR 67589, we also discussed the estimated start-up costs for e-prescribing for providers and/or dispensers. Based on industry input, we cited approximately $3,000 for annual support, maintenance, infrastructure and licensing costs. Physicians at that time reported paying user-based licensing fees ranging from $80 to $400 per month. For further discussion of the start-up costs associated with e-prescribing, see the regulatory impact analysis section of

this proposed regulation, and the e-prescribing final rule at 70 FR 67589.

In the November 7, 2005 final rule, we addressed the issues of privacy and security relative to e-prescribing in general. We noted that disclosures of protected health information (PHI) in connection with e-prescribing transactions would have to meet the minimum necessary requirements of the Privacy Rule if the entity is a covered entity (70 FR 6161). It is important to note that health plans, prescribers, and dispensers are HIPAA covered entities, and that these covered entities under HIPAA must continue to abide by the applicable HIPAA standards including these for privacy and security.

We continue to agree that privacy and security are important issues related to e-prescribing. Achieving the benefits of e-prescribing require the prescriber and dispenser to have access to patient medical information that may not have been previously available to them. Section 1860–D(e)(2)(C) of the Act requires that disclosure of patient data in e-prescribing must, at a minimum, comply with HIPAA's privacy and security requirements.

Although HIPAA standards for privacy and security are flexible and scalable to each entity's situation, they provide comprehensive protections. We will continue to evaluate additional standards for consideration as adopted e-prescribing standards. For further discussion of privacy and security and e-prescribing, refer to the final rule at 70 FR 67581 through 67582.

1. Retail Pharmacy

Because e-prescribing is voluntary for pharmacies, dispensers who do not currently conduct e-prescribing would not incur any costs related to any of the provisions of this rule. However, we recognize that costs would be incurred by those dispensers that currently conduct e-prescribing transactions, as well as those who voluntarily implement e-prescribing during the period reflected in our regulatory impact analysis. Industry estimates are that close to 100 percent of the nation's retail chain pharmacies are connected live to an e-prescribing network, with over 95 percent of those connected to networks capable of receiving and exchanging formulary and benefit and medication history data. This is in contrast to only 20 percent of independent pharmacies that are connected to e-prescribing networks.

The transaction using the NCPDP Formulary and Benefit Standard 1.0 is carried out between the plan and prescriber and, therefore, pharmacies will not incur any cost related to this transaction.

While the NCPDP SCRIPT 8.1 Medication History transaction supports communication between the dispenser and prescriber, its use is, nonetheless, voluntary for both. We assume for purposes of this analysis that the Medication History transaction will be carried out between the plan and prescriber, and therefore preliminarily conclude that pharmacies will not incur costs related to this transaction. We solicit industry and other interested stakeholder comment and input on this issue.

The modification of the NCPDP SCRIPT 5.0 foundation standard to NCPDP SCRIPT 8.1 at § 423.160(b)(1) will impact pharmacies. Pharmacies will have to assure that their software can accept prescription transactions using the 8.1 standard, and they will need to test with prescribers to assure that their electronic transactions are being received and can be processed. We believe there is little, if any, incremental costs associated with these activities. Software vendors are already implementing version 8.1 in their products, and we believe that any needed upgrades will be included in routine version upgrades. The number of current e-prescribers per pharmacy is small, and the testing process is not complicated. We believe that the implementation of the NPI will be accomplished as part of this transition. Prescribers and dispensers already use the NPI to conduct retail pharmacy drug claim transactions.

2. Medical Practices

Medical practices, compared to pharmacies, face a different set of costs in implementing information systems for clinical care and financial management. Unlike pharmacies, where technology has become an important part of operations (especially for larger retail chains), many providers have been cautious in their adoption of health information technology. We assume that, based on industry estimates, anywhere from 5 to 18 percent of physicians are e-prescribing today[3]. Because e-prescribing is voluntary for prescribers, medical practices that do not currently conduct e-prescribing would not incur any costs related to any of the provisions of this rule. However, we recognize that costs would be incurred by those prescribers currently e-prescribing, as well as those who voluntarily begin to e-prescribe during the period reflected in our regulatory impact analysis. If a practice decides to implement e-prescribing at a later time, we anticipate that the software products on the market would be compliant with these standards and, therefore, no additional cost would be incurred. In assessing the cost to prescribers that are currently e-prescribing, many of the e-prescribing software products generally already contain some capability to communicate formulary and benefit and medication history information because they incorporate the RxHub proprietary format on which the proposed standards were based. We expect that any changes that might be necessary as a result of this rulemaking would likely be included in routine version upgrades that are covered by annual maintenance and/or subscription fees. We solicit industry and other interested stakeholder comment and input on this issue. For e-prescribers whose software products are not able to generate NCPDP SCRIPT 8.1 transactions, they will not have the capability to conduct the proposed NCPDP Formulary and Benefit Standard 1.0 and NCPDP SCRIPT 8.1 medication history transaction. Costs would be incurred if they were to replace such software with software that generates transactions that comply with the proposed standards. We anticipate that the NCPDP SCRIPT 8.1 will be accommodated in later software version upgrades where that standard is not already utilized. We believe that the implementation of the NPI will be accomplished as part of this transition. Prescribers and dispensers already should be using the NPI to conduct retail pharmacy drug claim transactions.

3. Medicare Part D Plan Sponsors and Pharmacy Benefit Managers (PBMs)

Plan sponsors will be required to support NCPDP SCRIPT 8.1 for the transactions listed at § 423.160(b)(1), the NCPDP Formulary and Benefit Standard 1.0, and the NCPDP SCRIPT 8.1 Medication History transaction. They will need to assure that their software can receive and create NCPDP Formulary and Benefit Standard 1.0 and NCPDP SCRIPT 8.1 Medication History transaction queries and responses, and that their internal systems and databases can supply the information needed to build the transaction. For example, they will need to be able to extract prescription claims history and format it according to the Medication History transaction in the NCPDP SCRIPT 8.1 Standard. We believe that many plans will have already implemented this functionality because the standards we are proposing are based on proprietary file transfer protocols developed by Rx-

[3] E-Prescribing and the Prescription Drug Program final rule, published November 7, 2005 (70 FR 67568).

Hub that have been included in many e-prescribing products. Plans may need to restructure systems to assure that the data output is in the proper format, but, for the most part, the needed functionality is in place.

We recognize that some Medicare Part D plans may need to make additional investments to support these standards, and we solicit industry and other interested stakeholder comment and input on this issue.

Because plans typically pay the per transaction network fees for eligibility transactions, which likely includes providing a formulary and benefit response as well as a medication history response, Medicare Part D plans will incur increased transaction costs for formulary and benefit and medication history transactions as the frequency in which these transactions are conducted electronically increases.

Through information provided by SureScripts and industry consultants, this transaction fee appears to range from 6 cents to 25 cents per transaction, with the midpoint being 15 cents. In 2006, RxHub, one of the nation's largest electronic prescription and prescription-related information routing networks, estimated that their transaction volume increased 50 percent, from 29 million in 2005 to more than 43 million in 2006. These transactions were real-time requests for patient eligibility and benefits, formulary and medication history information.[4]

Based on CMS data we estimate that approximately 24 million Medicare beneficiaries received Medicare Part D benefits in 2006. (This figure excludes beneficiaries covered under the Retiree Drug Subsidy [RDS] program.) Approximately 825,000,000 claims (prescription drug events) were finalized and accepted for 2006 payment.

Based on CMS data, we estimate that approximately 24 million Medicare beneficiaries received Medicare Part D benefits in 2006. This figure reflects those Medicare beneficiaries enrolled in a Medicare Prescription Drug Plan (PDP) and/or a Medicare Advantage plan with Prescription Drug coverage (MA–PD), for which CMS has prescription drug event data. Approximately 825,000,000 claims (prescription drug events) were finalized and accepted for 2006 payment.

The annual percentage increase in the number of Medicare Part D prescriptions is estimated by CMS at 4.6 percent based on industry estimates (*http://www.imshealth.com/ims/portal/front/articleC/0,2777,6599_3665_80415465,00.html*). So that impact comparisons can be made equally across all years, inflation was removed from the price effects. Conservatively, we calculate the increase in the number of Medicare Part D prescriptions and apply the current estimates of 5 and 18 percent electronic prescribing adoption rates to arrive at the number of Medicare Part D electronic transactions, and cost them out at a range of a low of 6 cents per transaction to a high of 25 cents per transaction. We estimate costs for Medicare Part D plans of between $2 million to $46 million per year.

TABLE 1.—TRANSACTION COSTS FOR MEDICARE PART D PLANS

Year	2009		2010		2011		2012		2013	
Number of Medicare Rxs	862,950,000		902,645,700		944,167,402		987,599,102		1,033,028,660	
Expected % of e-prescriptions	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
E-Rx Transaction Cost at $0.06	$2,588,850	$9,319,860	$2,707,937	$9,748,573	$2,832,502	$10,197,997	$2,962,797	$10,666,070	$3,099,085	$11,156,709
E-Rx Transaction Cost at $0.25	$10,786,875	$38,832,750	$11,283,071	$40,619,056	$11,802,092	$42,487,533	$12,344,498	$44,441,959	$12,912,858	$46,486,289

Medicare Part D plan sponsors may negotiate the cost of e-prescribing transactions as part of the dispensing fees included in their pharmacy contracts, and account for these costs in their annual bids to participate in the Medicare Part D program. In these instances, inclusion of these costs may increase the cost of their Medicare Part D bids. However, we anticipate that these costs would be negated by the savings from an increased rate of conversion from brand name to generic prescriptions realized through utilization of the formulary and benefit transaction, which would more than offset the transaction costs, and solicit comments on this assumption.

Medicare Part D plan sponsors will not be affected by the proposals to modify the NCPDP SCRIPT 5.0 foundation standard to adopt NCPDP SCRIPT 8.1 for the transactions listed at 42 CFR 423.160(b)(1) because these transactions are conducted between prescribers and dispensers, and plans are not involved.

Medicare Part D plan sponsors will not be significantly affected by the proposal to adopt the NPI as a standard for use in e-prescribing transactions among the plan sponsor, prescriber, and the dispenser because the plans already use the NPI in HIPAA transactions, such as the retail pharmacy drug claim.

4. Vendors

Vendors of e-prescribing software will incur costs to bring their products into compliance with these requirements. However, we consider the need to enhance functionality and comply with industry standards to be a normal cost of doing business that will be subsumed into normal version upgrade activities. Vendors may incur somewhat higher costs connected with testing activities but vendors should be able to address this potential workload on a flow basis. We believe these costs to be minimal, and solicit industry and other interested stakeholder comment and input on this issue.

C. Benefits

The benefits of the proposed adoption of standards for formulary and benefits and medication history transactions take place over a multi-year timeframe. The benefits come in the form of beneficiary cost savings realized by increases in formulary adherence and/or generic versus brand name prescribing by physicians as a result of real-time access to formulary and benefits information, administrative (time and labor cost) savings through reduced call-backs on the part of both physicians and pharmacists, and a reduction of the occurrence of preventable adverse drug events (ADEs) among Medicare beneficiaries, reducing resultant health care costs.

1. Formulary and Benefit Standard—Generic Drug Usage

We assume that, based on industry estimates, approximately 5 percent to 18 percent of group practices are e-prescribing today, and use that range for our assumptions. The formulary and benefit transaction will allow the

[4] RxHub Announces 2006 e-Prescribing Results and Highlights Milestones for 2007, St. Paul, MN, February 23, 2007, *http://www.rxhub.com.*

prescriber to view formulary drugs, alternative preferred drugs in a given class that may offer savings to the patient, and/or to see in advance what other less costly drugs within a given drug classification and/or generic drugs can be substituted for a given brand name prescription drug. This can result in reducing calls to the plan, and/or reducing the number of callbacks from a pharmacy because a prescribed drug is not on a beneficiary's drug plan formulary.

In 2006, 60 percent of Medicare Part D prescriptions in the first two quarters of the program were for generic drugs, and the remaining 40 percent were brand name prescription drugs. During a Medco study of physicians using e-prescribing technology (*http://medco.mediaroom.com/index.php?s=43&item=100*), physicians increased their generic substitution rates by over 15 percent. However, we recognize that not all beneficiaries will accept generic prescription drugs and there are some instances, especially when prescribing for mental health conditions, in which the brand name prescription drug has proven through physician experience to be the more effective drug, and therefore the drug of choice. Therefore, we apply a more conservative 7 percent annual increase in generic prescriptions.

We again apply the previously used 5 and 18 percent e-prescribing estimate range. Based on industry data, we assume the cost of a brand name prescription drug at $111.02 and the cost of a generic drug at $32.23.[5]

While Medicare beneficiaries will be the most direct recipients of the benefit realized by the conversion of brand name to generic prescription drugs, the Medicare program will benefit as well. The Medicare program will save money as it will be paying for an increased number of lower-cost generic prescriptions versus higher-cost, brand-name prescription drugs, as outlined in Table 2, and we solicit comments on both beneficiary and Medicare program savings assumption. We calculate a cost savings of $95 million to $410 million.

TABLE 2.—SAVINGS FROM SWITCH FROM BRAND NAME TO GENERIC DRUGS VIA FORMULARY & BENEFIT TRANSACTION INFORMATION

Year	2009		2010		2011		2012		2013	
Number of Medicare Rxs	862,950,000		902,645,700		944,167,402		987,599,103		1,033,028,661	
Number of Medicare Rxs—BRAND Only	345,180,000		361,058,280		377,666,961		395,039,641		413,211,465	
Expected % of E-Prescriptions	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
Number of Medicare E-Prescriptions	17,259,000	62,132,400	18,052,914	64,990,490	18,883,348	67,980,053	19,751,982	71,107,135	20,660,573	74,378,064
Brand to Generic Rx Conversions as a Result of E-Prescribing	1,208,130	4,349,268	1,263,704	4,549,334	1,321,834	4,758,604	1,382,639	4,977,499	1,446,240	5,206,464
Avg. Cost of Brand Name Drug × Total Elec. Generic Medicare Rxs	$134,126,593	$482,855,733	$140,296,416	$505,067,097	$146,750,051	$528,300,184	$153,500,553	$552,601,992	$160,561,579	$578,021,684
Avg. Cost of Generic Drug × Total Elec. Generic Medicare Rxs	$38,938,030	$140,176,908	$40,729,179	$146,625,045	$42,602,722	$153,369,797	$44,562,447	$160,424,808	$46,612,319	$167,804,349
Estimated Net Cost Savings (Reduction in Brand Drug Rx Payments)	$95,188,563	$342,678,826	$99,567,237	$358,442,052	$104,147,329	$374,930,386	$108,938,107	$392,177,184	$113,949,260	$410,217,334

2. Formulary and Benefit Standard—Administrative Savings

a. Physician and Physician Office Staff

The 2004 Medical Group Management Association (MGMA) survey entitled, ''Analyzing the Cost of Administrative Complexity'' (*http://www.mgma.com/about/default.aspx?id=280*) estimated the staff and physician time spent, on a per physician full time equivalent (FTE) basis, interacting with pharmacies on formulary questions and generic substitutions. Physician time on the phone discussing formulary issues was estimated at almost 16 hours a year; another 14 hours were spent per physician per year on generic substitution issues. Staff spent almost 26 hours per FTE physician on formulary issues, and another 24 hours per FTE physician on generic substitution issues.

Table 3 shows the administrative savings benefit to physicians and physician office staffs of performing formulary and benefit transactions electronically. CMS estimates the number of physicians in active practice who participated in the Medicare program in 2006 at 1,048,243.[6] Based on the same CMS data from 2003 through 2006, it indicates a percentage rise in the number of physicians participating in the Medicare program of .94 percent per year, so we have applied that percentage increase to arrive at an estimated number of Medicare physicians for 2009 through 2013. We also apply the previous assumption that from 5 to 18 percent of prescribers are e-prescribing today. Per the MGMA survey, we assume a physician labor cost of $100 per hour and an average staff labor cost of $22 per hour per physician FTE.

Pilot site experience shows that, among prescribers or their agents who adopted e-prescribing, obtaining prior approvals, responding to refill requests, and resolving pharmacy callbacks were all done more efficiently with e-prescribing than before. Both groups perceived a greater than 50 percent reduction in time to manage refill requests and significant time savings in managing pharmacy call backs.[7] However, we are realistic in our assumption that full implementation would be difficult to achieve, and use an estimate of 25 percent. Our model calculates that physicians and staff would realize savings ranging from $55 million to $206 million at a 25 percent implementation rate.

[5] *http://www.nacds.org/wmspage.cfm?parm1=5507.* National Association of Chain Drug Stores data.

[6] 2006 CMS Statistics, U.S. Department of Health and Human Services CMS Pub. No. 03470, July 2006, Table 22.

[7] Findings from the Evaluation of E-Prescribing Pilot Sites, *http://www.healthit.ahrg.gov.*

TABLE 3.—ADMINISTRATIVE SAVINGS FOR PHYSICIANS AND MEDICAL OFFICE STAFF

Year	2009		2010		2011		2012		2013	
# of Medicare Physicians	1,078,081	1,078,081	1,088,215	1,088,215	1,098,444	1,098,444	1,108,769	1,108,769	1,119,191	1,119,191
Expected % of e-rx prescribers	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
Estimated # of Medicare physicians e-prescribing	53,904	194,055	54,411	195,879	54,922	197,720	55,438	199,578	55,960	201,454
Total MD hrs spent on formulary and generic substitution pharmacy calls (30 hrs) × labor cost ($100/hr)	$161,712,150	$582,163,740	$163,232,250	$587,636,100	$164,766,600	$593,159,760	$166,315,350	$598,735,260	$167,878,650	$604,363,140
Total staff hrs spent on formulary and generic substitution pharmacy calls (50 hrs) × labor cost ($22/hr)	$59,294,455	$213,460,038	$59,851,825	$215,466,570	$60,414,420	$217,491,912	$60,982,295	$219,536,262	$61,555,505	$221,599,818
Total Labor Costs	$221,006,605	$795,623,778	$223,084,075	$803,102,670	$225,181,020	$810,651,672	$227,297,645	$818,271,522	$229,434,155	$825,962,958
Total Anticipated Labor Savings (25%)	$55,251,651	$198,905,945	$55,771,019	$200,775,668	$56,295,255	$202,662,918	$56,824,411	$204,567,881	$57,358,539	$206,490,740

b. Pharmacists

In Table 4, we draw a correlation from the potential administrative savings realized by physicians and staff for pharmacists. If each physician and their office staff save a total of 80 hours a year by using the formulary and benefit transaction and reducing the time spent on the phone with pharmacists, we assume that pharmacists are saving the equivalent amount of time by not making these calls. Since the MGMA survey assumes a pharmacist labor rate of $60 per hour, our model predicts that, at an annualized cost savings, pharmacists would realize an annualized cost benefit savings ranging from a low of $65 million to a high of $242 million at 25 percent implementation.

TABLE 4.—ADMINISTRATIVE SAVINGS FOR PHARMACISTS

Year	2009		2010		2011		2012		2013	
# of Medicare Physicians	1,078,081	1,078,081	1,088,215	1,088,215	1,098,444	1,098,444	1,108,769	1,108,769	1,119,191	1,119,191
Expected % of e-prescribers	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
Estimated # of Medicare physicians e-prescribing	53,904	194,055	54,411	195,879	54,922	197,720	55,438	199,578	55,960	201,454
Total MD and staff hrs spent on formulary and generic substitution pharmacy calls (80 hrs) × pharmacist labor cost ($60/hr)	$258,739,440	$931,461,984	$261,171,591	$940,217,760	$263,626,613	$949,055,616	$266,104,650	$957,976,416	$268,605,943	$966,981,024
Total Anticipated Labor Savings (25%)	$64,684,860	$232,865,496	$65,292,898	$235,054,440	$65,906,653	$237,263,904	$66,526,162	$239,494,104	$67,151,486	$241,745,256

3. Medication History Standard—Reduction of Adverse Drug Events (ADEs)

Automating the transmission of medication history information will simplify medication reconciliation through transitions in care and, in so doing, provide a safer and more effective health care system. Consumers will benefit from a safer medication delivery system, and greater convenience.

Although outpatient ADEs are difficult to estimate, current literature estimates that, as of 2005, there were 530,000 preventable ADEs for Medicare beneficiaries.[8] Moreover, the estimated cost per ADE ranges from $2,000[9] to upwards of $6,000[10] depending on the care setting. We chose to compute the benefits of medication history based on ADEs as a percentage of the total Medicare population. Based on CMS data from 1999 through 2006, the total Medicare population increased on average 1.13 percent per year.[11] We calculated that of the total Medicare population, ADEs occur in about 1.24 percent of that population each year.

Brigham and Women's Hospital discovered in their analysis of ADEs, conducted as part of the CMS e-prescribing pilot project, that e-prescribing could reduce the risk of ADEs by approximately 50 percent.[12] As medication history is a transaction that most directly impacts ADEs (versus formulary and benefit, codified SIG, etc.), we assume that the reduction in the risk of ADEs can be attributed mostly to the use of medication history rather than to e-prescribing in general. The pilot project demonstrated that 50 percent of preventable ADEs could be eliminated via e-prescribing, and possibly more as prescriber familiarity with the medication history function and full clinical decision support tools become available in all e-prescribing software. We also recognize that the Brigham and Women's Hospital ADE analysis brings with it a degree of uncertainty, as it was a by-product of the pilot project itself, and may not accurately represent the experiences of all entities (that is, small rural settings). Given that, we conservatively assume that the number of ambulatory ADEs associated with Medicare Part D beneficiaries could be reduced by 25 percent for the proportion of patients for whom prescriptions are written electronically; we use the same uptake e-prescribing estimates (5 to 18 percent) as earlier for e-prescribing adoption. Table 5 summarizes potential savings to the public based on these assumptions.

[8] Field TS, Gilman BH, Subramanian S, Fuller JC, Bates DW, Gurwitz JH. 2005. The costs associated with adverse drug events among older adults in the ambulatory setting. Medical Care 43(12):1171.1176.

[9] Field TS, Gilman BH, Subramanian S, Fuller JC, Bates DW, Gurwitz JH. 2005. The costs associated with adverse drug events among older adults in the ambulatory setting. Medical Care 43(12):1171.1176.

[10] Institute of Medicine of the National Academies. Preventing Medication Errors. July, 2006. Field TS, Gilman BH, Subramanian S, Fuller JC, Bates DW, Gurwitz JH. 2005. The costs associated with adverse drug events among older adults in the ambulatory setting. Medical Care 43(12):1171.1176.

[11] 2006 CMS Statistics, U.S. Department of Health and Human Services CMS Pub. No. 03470, July 2006, Table 1.

[12] Findings from the Evaluation of E-Prescribing Pilot Sites, *http://www.healthit.ahrq.gov.*

TABLE 5.—POTENTIAL SAVINGS TO PUBLIC DUE TO REDUCTION IN PREVENTABLE ADVERSE DRUG EVENTS (ADES)

Year	2009		2010		2011		2012		2013	
Total Medicare Population Estimates ...	44,577,662	44,577,662	45,081,390	45,081,390	45,590,809	45,590,809	46,105,985	46,105,985	46,626,983	46,626,983
Potential Avoidable ADEs via E-Rx	552,763	552,763	559,009	559,009	565,326	565,326	571,714	571,714	578,175	578,175
% of E-Rx Adoption	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
Avoided ADEs	27,638	99,497	27,950	100,622	28,266	101,759	28,586	102,909	28,909	104,071
Avoided ADEs Estimate (×25%)	6,910	24,874	6,988	25,155	7,067	25,440	7,146	25,727	7,227	26,018
Cost Avoided Estimate (25%×$2k)	$13,819,075	$49,748,671	$13,975,231	$50,310,831	$14,133,151	$50,879,343	$14,292,855	$51,454,280	$14,454,365	$52,035,713
Cost Avoided Estimate (25%×$6k)	$41,457,226	$149,246,012	$41,925,692	$150,932,492	$42,399,453	$152,638,029	$42,878,566	$154,362,839	$43,363,094	$156,107,139

Table 5 shows that the introduction of e-prescribing can potentially realize a cost savings of $13 million to $156 million from avoided ADEs. We solicit industry and other interested stakeholder comment and input on this issue. Besides lower rates of ADEs, the public will also realize other benefits related to the medication history function of e-prescribing. Through improved collaboration and communication between physicians and plans, patients will be more likely to have greater access to information which will encourage them to become more involved in their own treatment, which studies show decreases the probability of experiencing an ADE-related error.[8]

C. Total Impact

This analysis has focused on the costs and benefits of two new e-prescribing standards, and the adoption of NCPDP SCRIPT 8.1 in place of version 5.0. We conclude that the cost of implementing these proposals is minimal, with quantifiable benefits reaped by pharmacies, providers, and beneficiaries. Over time, we expect that these groups will see average benefits in a range from $218.0 million to $863.9 million from the utilization of formulary and benefit and medication history transactions and the promulgation of these standards (Table 6).

D. Alternatives Considered

In developing this proposed rule, we considered a range of alternatives. While required by statute to issue a regulation, we were not required to issue standards for specific functionality if appropriate standards were not available.

We considered not issuing an additional rule, and allowing the foundation standards to become the complete set. Since we had successful results from the pilot project, and the value added by the proposed additional standards is substantial, we chose to proceed. Given the existing foundation standards, our failure to proceed would not have averted many costs, but the lack of a medication history standard, for example, would have limited benefits, particularly for consumers.

We considered proposing the prior authorization and RxNorm standards for adoption, and elected not to do so. In both cases, the decision was based on the results of the pilot project. We expect that both standards, in their current forms and given the current state of the industry, would impose substantial additional costs while delivering marginal additional benefits. In the case of prior authorization, much of the additional cost is likely to be on the health plan side. We expect that software vendors will explore adding this functionality to provider-based systems and that health plans will adopt it as doing so becomes feasible.

In the case of the RxFill standard, we did not get a clear indication from the pilot project as to its added value.

We considered not proposing adoption of the NPI as a standard for Medicare Part D e-prescribing transactions, but, given the need for an identifier in e-prescribing transactions and the fact that large portions of the health care industry are required to use NPI as a HIPAA standard, we felt that adoption at this time was feasible and desirable.

TABLE 6.—COST/BENEFITS FOR THE ADOPTION OF STANDARDS FOR MEDICATION HISTORY AND FORMULARY AND BENEFITS, 2009–2013

[$ Millions]

	2009		2010		2011		2012		2013		Total	
BENEFITS:												
Expected % of E-Prescribing Adoption	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%	5%	18%
Generic versus Brand Name Drugs	$95.1	$342.6	$99.5	$358.4	$104.1	$374.9	$108.9	$392.1	$113.9	$410.2	$521.5	$1,878.2
Administrative—Physician/Office Staff ..	$55.2	$198.9	$55.7	$200.7	$56.2	$202.6	$56.8	$204.5	$57.3	$206.4	$281.2	$1,013.1
Administrative—Pharmacies	$64.6	$232.8	$65.2	$235.0	$65.9	$237.2	$66.5	$239.4	$67.1	$241.7	$329.3	$1,186.1
Reduction in ADEs	$13.8	$49.7	$13.9	$50.3	$14.1	$50.8	$14.2	$51.4	$14.4	$52.0	$70.4	$254.2
Total Benefits	$228.7	$824.0	$234.3	$844.4	$240.3	$865.5	$246.4	$887.4	$252.7	$910.3	$1,202.4	$4,331.6
*COSTS:												
Transaction Costs	$10.7	$38.8	$11.2	$40.6	$11.8	$42.4	$12.3	$44.4	$12.9	$46.4	$58.9	$212.6
NET BENEFITS	$218.0	$785.2	$223.1	$803.8	$228.5	$823.1	$234.1	$843.0	$239.8	$863.9	$1,143.5	$4,119.0

*These costs reflect only transaction costs as outlined in Table 1, and do not take into account the potential costs of systems and/or software upgrades, etc., for which stakeholder/industry information and input is being solicited.

E. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 7 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed rule. This table provides our best estimate of the costs and benefits associated with the adoption of the two new e-prescribing standards, and the adoption of NCPDP SCRIPT 8.1 in place of version 5.0. Costs will be incurred by plans/PBMs paying transaction charges to networks. Generic versus brand name drug benefits will accrue from physicians to beneficiaries; administrative savings to physicians, physician offices and pharmacists; from pharmacists to physicians and physician offices; and from physicians to beneficiaries in the reduction in the number of ADEs.

TABLE 7.—ACCOUNTING STATEMENT: ANNUALIZED MONETIZED TRANSACTION COSTS AND BENEFITS

[$ Millions/year]

	5% Expected annual E-Rx adoption rate	18% Expected annual E-RX adoption rate
COSTS:		
Transaction costs	$58.9	$212.6
Annualized monetized costs:		
7% Discount rate	11.7	42.2
3% Discount rate	11.7	42.3
0% Discount rate	11.8	42.5
Paid by plans/PBMs to networks.		
BENEFITS:		
Generic versus brand name drugs, administrative for physicians and pharmacists, reduction in ADEs	1,202.4	4,331.6
Annualized monetized benefits:		
7% Discount rate	239.6	862.9
3% Discount rate	240.1	864.8
0% Discount rate	240.4	866.3
Generated physicians to pharmacists, pharmacists to physicians, and physicians to beneficiaries.		
NET BENEFIT	1,143.5	4,119.0

List of Subjects in 42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations (HMO), Health professions, Incorporation by reference, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble in this proposed regulation, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR part 423 as follows:

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

1. The authority citation for part 423 continues to read as follows:

Authority: Secs. 1102, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395W–101 through 1395W–152, and 1395hh).

2. Section 423.160 is amended by—

A. Revising paragraph (b)(1).

B. Adding new paragraphs (b)(3), (b)(4), and (b)(5).

C. Revising paragraph (c).

The revisions and additions read as follows:

§ 423.160 Standards for electronic prescribing.

* * * * *

(b) *Standards*—(1) *Prescription.* The National Council for the Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide Version 8, Release 1 (Version 8.1), October 2005 to provide for the communication of a prescription or prescription-related information between prescribers and dispensers, for the following:

(i) Get message transaction.

(ii) Status response transaction.

(iii) Error response transaction.

(iv) New prescription transaction.

(v) Prescription change request transaction.

(vi) Prescription change response transaction.

(vii) Refill prescription request transaction.

(viii) Refill prescription response transaction.

(ix) Verification transaction.

(x) Password change transaction.

(xi) Cancel prescription request transaction.

(xii) Cancel prescription response transaction.

* * * * *

(3) *Medication history.* The National Council for Prescription Drug Programs (NCPDP) Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8, Release 1 (Version 8.1), October 2005 to provide for the communication of Medicare Part D medication history information among Medicare Part D sponsors, prescribers, and dispensers.

(4) *Formulary and benefits.* The National Council for Prescription Drug Programs (NCPDP) Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0 (Version 1.0), October 2005 for transmitting formulary and benefit information between prescribers and Medicare Part D sponsors.

(5) *Provider identifier.* The National Provider Identifier (NPI), as defined at 45 CFR 162.406, to identify a health care provider in Medicare Part D e-prescribing or prescription-related transactions conducted among Medicare Part D plan sponsors, prescribers, and dispensers when a health care provider's identifier is required.

(c) *Incorporation by reference.* The Director of the Federal Register approves, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the incorporation by reference of certain publications into this section. You may inspect copies of these publications at the headquarters of the Centers for Medicare & Medicaid Services (CMS), 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday from 8:30 a.m. to 4 p.m. or at the National Archives and Records Administration (NARA). For more 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.*

The publications approved for incorporation by reference and their original sources are as follows:

(1) National Council for Prescription Drug Programs, Incorporated, 9240 E. Raintree Drive, Scottsdale, AZ 85260–7518; Telephone (480) 477–1000; and FAX (480) 767–1042 or *http://www.ncpdp.org.*

(i) National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8, Release 1, October 2005, excluding the Prescription Fill Status Notification Transactions (and its three business cases; Prescription Fill Status Notification Transaction—Filled, Prescription Fill Status Notification Transaction—Not Filled, and Prescription Fill Status Notification Transaction—Partial Fill).

(ii) The National Council for Prescription Drug Programs Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0, October 2005.

(iii) National Council for Prescription Drug Programs Telecommunication Standard Specification, Version 5, Release 1 (Version 5.1), September 1999 and equivalent National Council for the Prescription Drug Program (NCPDP) Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000 supporting Telecommunications Standard Implementation Guide, Version 5, Release 1 (Version 5.1) for the NCPDP Data Record in the Detail Data Record.

(2) Accredited Standards Committee, 7600 Leesburg Pike, Suite 430, Falls Church, VA 22043; Telephone (301) 970–4488; and fax: (703) 970–4488 or *http://www.x12.org.*

(i) Accredited Standards Committee (ASC) X12N 270/271–Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, Washington Publishing Company, 004010X092 and Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010A1, October 2002, Washington Publishing Company, 004010X092A1.

(ii) [Reserved].

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

Dated: July 19, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: September 20, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–5681 Filed 11–13–07; 10:00 am]

BILLING CODE 4120–01–P

Reader Aids

Federal Register

Vol. 72, No. 221

Friday, November 16, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

61791–62104 1
62105–62408 2
62409–62558 5
62559–62766 6
62767–63096 7
63097–63444 8
63445–63782 9
63783–63966 13
63967–64118 14
64119–64522 15
64523–64918 16

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

175 63783

3 CFR

Proclamations:
8195 62395
8196 62397
8197 62399
8198 62401
8199 62403
8200 62555
8201 62557
8202 64117

Executive Orders:
12170 (See Notice of Nov. 8, 2007: National Emergency With Iran) 63965
12938 (See Notice of Nov. 8, 2007: Emergency Regarding Weapons of Mass Destruction) 63963
13067 (See Notice of November 1, 2007) 62407
13094 (See Notice of Nov. 8, 2007: Emergency Regarding Weapons of Mass Destruction) 63963
13382 (See Notice of Nov. 8, 2007: Emergency Regarding Weapons of Mass Destruction) 63963
13400 (See Notice of November 1, 2007) 62407
13450 64519

Administrative Orders:
Notices:
Notice of November 1, 2007 62407
Notice of November 8, 2007 (Emergency Regarding Weapons of Mass Destruction) 63963
Notice of November 8, 2007 (National Emergency With Iran) 63965

5 CFR

353 62767
532 ..... 63967, 63968
575 64523

7 CFR

210 63785
215 63785
220 63785
235 63785
245 63785
301 62409
457 62767
718 63242
761 63242
762 63242
763 63242
764 63242
765 63242
766 63242
767 63242
768 63242
769 63242
771 64119
772 64119
773 64119
774 64119
966 64123
993 62409
1170 62105
1405 63242
1806 64119
1901 64119
1910 64119
1924 64119
1925 64119
1927 64119
1940 64119
1941 64119
1943 64119
1950 64119
1951 64119
1955 64119
1956 64119
1962 64119
1965 64119

Proposed Rules:
47 61820
51 62417
56 62591
70 62591
305 64163
318 64163
331 64540

8 CFR

245 61791

Proposed Rules:
100 62593
103 61821
204 61821
212 62593
214 61821
299 61821

9 CFR

94 63796
98 64126

381.....61793
Proposed Rules:
121.....64540

10 CFR

2.....64529
13.....64529
30.....63969
40.....63969
50.....63969
52.....63969
60.....63969
61.....63969
63.....63969
70.....63969
71.....63969
72.....63969
76.....63969
Proposed Rules:
51.....64003
54.....63141
430.....64432
431.....64432

11 CFR

Proposed Rules:
88.....62798
100.....62600
104.....62600

12 CFR

41.....62910, 63718
201.....63097
202.....63445
205.....63452
213.....63456
222.....62910, 63718
226.....63462
230.....63477
334.....62910, 63718
364.....63718
551.....62768
571.....62910, 63718
630.....64129
717.....62910, 63718
Proposed Rules:
308.....62310
363.....62310
Ch. V.....64003

13 CFR

400.....63975

14 CFR

1.....63364
21 .....63364, 63797, 64529
23.....62105
25.....63364
26.....63364
29.....64529
39 .....61796, 62559, 62560, 62562, 62564, 62566, 62568, 63098, 63800, 63805, 64130, 64132, 64135, 64139, 64143, 64532
71 .....62107, 62108, 62110, 62111, 62412, 63100, 63101, 64145, 64146
91.....63364
97.....64533, 64534
121.....63364
125.....63364
129.....63364
Proposed Rules:
Ch. I.....64170
39 .....61822, 61824, 62143, 62802, 63503, 63506, 63508, 63510, 63512, 63827, 63829, 63831, 63834, 63836, 64005, 64008, 64009, 64010, 64171, 64172, 64540, 64542
Ch. III.....64170

15 CFR

734.....62768
742.....62524
743.....62524
744.....62524
772.....62524
774.....62524, 62768

16 CFR

681.....63718

17 CFR

1.....63976
3.....63102, 63976
4.....63976
15.....63976
166.....63976
211.....63484
Proposed Rules:
232.....63513
270.....63513

18 CFR

388.....63980

19 CFR

123.....63805
Proposed Rules:
122.....64012

20 CFR

Proposed Rules:
404.....62607
405.....62607
416.....62607
616.....62145

21 CFR

510.....63986
520.....63986
522.....62771
558.....62570
Proposed Rules:
2.....63141
101.....62149
606.....63416
610.....63416
630.....63416
640.....63416
660.....63416
820.....63416
1270.....63416

22 CFR

62.....61800, 62112

24 CFR

3285.....62308

25 CFR

Proposed Rules:
502.....64545
542.....64545
543.....64545
546.....64545
547.....64545

26 CFR

1 .....62771, 63806, 63807, 63813, 64147
301.....62771, 63807
602.....63813
Proposed Rules:
1 .....62608, 62805, 63143, 63144, 63523, 63528, 63838, 64174, 64545, 64708
301.....62805

29 CFR

1910.....64342
1915.....64342
1917.....64342
1918.....64342
1926.....64342
2520.....64710
4022.....64150
4044.....64150
Proposed Rules:
1401.....62417

30 CFR

Proposed Rules:
49.....63529, 63540
75.....63530
250.....63155

31 CFR

2.....63104

32 CFR

199.....63987, 64536
519.....64538
701.....64538
706.....62412, 63485

33 CFR

101.....63106
105.....63106
106.....63106
117 .....63107, 63486, 63487, 63488, 64152
165.....62117, 63488
Proposed Rules:
100.....63839
117 .....63156, 63530, 64175, 64177
165.....62609, 62613

34 CFR

668.....62014
674.....61960, 62014
676.....62014
682.....61960, 62014
685.....61960, 62014
690.....62014
691.....62014

36 CFR

1228.....64153
Proposed Rules:
1191.....61826
1193.....61827
1194.....61827
1195.....61828
1250.....64558
1251.....64558
1256.....64558

37 CFR

202.....61801
Proposed Rules:
383.....63532

39 CFR

301.....64155
3001.....63662
3010.....63662, 64155
3015.....63662, 64155
3020.....63662, 64155

40 CFR

49.....63988
52 .....61806, 62119, 62338, 62571, 62579, 62788, 63107, 63990, 64156, 64158
60.....62414, 64860
63.....64860
81.....62414, 63990
82.....63490
97.....62788
180 .....62788, 63992, 63994, 63997, 64538
Proposed Rules:
51.....63850
52 .....62175, 62420, 62422, 62615, 62616, 62807, 62809, 63850, 64179
55.....64563
63.....63159
82.....63535
87.....64570

42 CFR

411.....62585, 64161
412.....62585
413.....62585
489.....62585
Proposed Rules:
423.....64900

44 CFR

64.....63110, 63112
65.....62121
67.....61806
Proposed Rules:
67 .....61828, 61850, 62178, 62184, 62194

47 CFR

11.....62123
15.....63823
27.....63499
64.....61813
73.....63823
Proposed Rules:
1.....64013
11.....62195
15.....64013
27.....64013
61.....64179
69.....64179
73 .....63866, 63867, 63868
74.....62616
90.....63869, 64013
101.....64013

48 CFR

Ch. 1.....63026, 63094
1.....63027, 63089
2 .....63040, 63045, 63075
3.....63045
4 .....63040, 63075, 63076
5.....63075, 63084
6.....63084
7.....63027, 63040
11.....63040
12 .....63040, 63045, 63084
13.....63040, 63075
15.....63045, 63076
17.....63076

18 .....63027, 63045, 63084
19 63045
22 .....63076, 63088
23 63040
25 63089
26 63084
27 63045
28 63027
32 63027
33 .....63027, 63045
42 63040
43 63027
45 63040
50 63027
52 .....63027, 63040, 63045, 63076, 63084, 63089
53 63089
202 63113
212 63113
225 63113

Proposed Rules:

2 61854
3 64019
4 61854
9 64019
12 61854
14 61854
15 61854
16 61854
19 61854
27 61854
30 61854
31 .....61854, 64185
32 61854
42 .....61854, 64019
44 61854
49 61854
52 .....61854, 64019

49 CFR

385 62795
571 62135
585 62135
1507 63706
1572 63106

Proposed Rules:

571 62198
579 62198
1114 62200
1121 62200
1150 62200
1180 62200

50 CFR

17 .....62736, 63123, 64286
229 .....62587, 63824
600 61815
622 62415
648 .....62416, 64000
679 .....62590, 63500, 64001

Proposed Rules:

17 62992
223 63537
600 64186
635 64186
648 .....64023, 64187
679 .....63871, 64034

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 16, 2007

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Tomatoes grown in Florida; published 11-15-07

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Spiny dogfish; published 11-19-07

DEFENSE DEPARTMENT

Army Department

Publication of rules affecting public; requirements and policies; published 11-16-07

DEFENSE DEPARTMENT

Civilian health and medical program of the uniformed services (CHAMPUS):

TRICARE program—

Retiree Dental Program; overseas locations expansion; published 11-16-07

DEFENSE DEPARTMENT

Navy Department

Privacy Act; implementation; published 11-16-07

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Volatile organic compounds (VOC)—

Synthetic organic chemicals manufacturing industry and petroleum refineries; equipment leaks; published 11-16-07

Air quality implementation plans; approval and promulgation; various States:

California; published 9-17-07

Kentucky; published 10-17-07

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Pendimethalin; published 11-16-07

NUCLEAR REGULATORY COMMISSION

Practice and procedure:

Electronic submissions use in agency hearings

Correction; published 11-16-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 11-1-07

Boeing; published 10-12-07

Airworthiness standards:

Turbine engines; bird ingestion standards; published 10-17-07

Standard instrument approach procedures; published 11-16-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

African swine fever; regions—

Georgia; comments due by 11-19-07; published 9-18-07 [FR E7-18315]

Plant-related quarantine, domestic:

Exotic fruit flies; regulations consolidation; comments due by 11-19-07; published 9-18-07 [FR E7-18316]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System lands:

Unauthorized mineral operations; criminal citation issuance; clarification; comments due by 11-23-07; published 10-23-07 [FR E7-20758]

COMMERCE DEPARTMENT

Economic Analysis Bureau

International service surveys:

BE-12; foreign direct investment in the U.S.; benchmark survey; comments due by 11-20-07; published 9-21-07 [FR E7-18592]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Cost or pricing data; definition; comments due by 11-22-07; published 11-1-07 [FR 07-05404]

DEFENSE DEPARTMENT

Navy Department

Claims on behalf of and against U.S.:

Affirmative claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18199]

General claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18198]

Nonappropriated-funds claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18205]

Personnel claims; administrative processing and consideration; comments due by 11-19-07; published 9-19-07 [FR E7-18204]

ENERGY DEPARTMENT

Western Area Power Administration

Energy Planning and Management Program:

Integrated resource planning approval criteria; comments due by 11-19-07; published 8-21-07 [FR E7-16477]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:

Preparation, adoption, and submittal—

Particulate matter less than 2.5 micrometers; prevention of significant deterioration; comments due by 11-20-07; published 9-21-07 [FR E7-18346]

Air quality implementation plans; limited approval under Clean Air Interstate Rule:

Indiana; comments due by 11-21-07; published 10-22-07 [FR E7-20249]

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 11-19-07; published 10-18-07 [FR E7-20375]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Pennsylvania; comments due by 11-23-07; published 10-24-07 [FR E7-20942]

Pesticides; tolerances in food, animal feeds, and raw agriculture commodities:

Amitraz, etc.; comments due by 11-19-07; published 9-19-07 [FR E7-18508]

Pesticides; tolerances in food, animal feeds, and raw agriculture comodities:

Chloroneb, etc.; comments due by 11-19-07; published 9-19-07 [FR E7-18496]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Desmedipham; comments due by 11-19-07; published 9-19-07 [FR E7-18373]

Pendimethalin; comments due by 11-19-07; published 9-19-07 [FR E7-18259]

Trifloxystrobin; comments due by 11-19-07; published 9-19-07 [FR E7-18371]

Superfund program:

National oil and hazardous substances contingency plan priorities list; comments due by 11-19-07; published 9-19-07 [FR E7-18154]

FARM CREDIT ADMINISTRATION

Farm credit system:

Funding and fiscal affairs, loan policies and operations, and funding operations—

Capital adequacy; Basel Accord; comments due by 11-19-07; published 6-21-07 [FR E7-11990]

FEDERAL DEPOSIT INSURANCE CORPORATION

Assessments:

Dividend requirements; implementation; comments due by 11-19-07; published 9-18-07 [FR 07-04596]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Cost or pricing data; definition; comments due by 11-22-07; published 11-1-07 [FR 07-05404]

HEALTH AND HUMAN SERVICES DEPARTMENT
Agency for Healthcare Research and Quality
Agency information collection activities; proposals, submissions, and approvals; comments due by 11-19-07; published 10-19-07 [FR 07-05156]

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services
Medicare:
Hospital inpatient prospective payment systems and 2008 FY rates; comments due by 11-20-07; published 8-22-07 [FR 07-03820]

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Administrative rulings and decisions:
Ozone depleting substances; essential use designations; removal; comments due by 11-19-07; published 9-20-07 [FR 07-04663]

HOMELAND SECURITY DEPARTMENT
U.S. Customs and Border Protection
Air commerce and vessels in foreign and domestic trades:
Passengers, crew members and non-crew members traveling onboard international commercial flights and voyages; electronic manifest requirements; comments due by 11-19-07; published 9-18-07 [FR E7-18121]

HOMELAND SECURITY DEPARTMENT
Coast Guard
Anchorage regulations:
Florida; comments due by 11-21-07; published 10-22-07 [FR E7-20608]
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Nawiliwili Harbor, Kauai, HI; comments due by 11-20-07; published 10-31-07 [FR 07-05412]

HOMELAND SECURITY DEPARTMENT
Transportation Security Administration
Civil aviation security:
Secure Flight program; comments due by 11-21-07; published 10-24-07 [FR 07-05254]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Sierra Nevada bighorn sheep; comments due by 11-23-07; published 10-9-07 [FR E7-19596]
Pariette cactus; listing; comments due by 11-19-07; published 9-18-07 [FR E7-18195]

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Utah; comments due by 11-21-07; published 10-22-07 [FR E7-20697]
Surface and underground coal mining activities:
Excess spoil and coal mine waste minimization and stream buffer zones for U.S. waters—
Public hearings; comments due by 11-23-07; published 10-10-07 [FR E7-19961]

JUSTICE DEPARTMENT
Drug Enforcement Administration
Controlled substances; manufacturers, distributors, and dispensers; registration:
Maintenance or detoxification treatment; approved narcotic controlled substances dispensed or prescribed by qualified individual practitioners
Patient limitation changes; comments due by 11-19-07; published 9-20-07 [FR E7-18531]
Records and reports of listed chemicals and certain machines:
Chemical distributors; record requirements; comments due by 11-20-07; published 9-21-07 [FR E7-18530]
Schedules of controlled substances:
Tetrahydrocannabinols; Schedule III listing; technical amendment; comments due by 11-23-07; published 9-24-07 [FR E7-18714]

JUSTICE DEPARTMENT
Parole Commission
Federal prisoners; paroling and releasing, etc.:
Probable cause hearings; feasibility of conducting through video conferences between Commission office and District of Columbia Central Dentention Facility; comments due by 11-19-07; published 9-18-07 [FR E7-17762]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Cost or pricing data; definition; comments due by 11-22-07; published 11-1-07 [FR 07-05404]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; comments due by 11-20-07; published 9-21-07 [FR E7-18436]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 11-19-07; published 10-25-07 [FR E7-21008]
Eurocopter France; comments due by 11-19-07; published 10-19-07 [FR E7-20684]
General Electric Co.; comments due by 11-19-07; published 9-19-07 [FR E7-18418]
Rolls-Royce, plc; comments due by 11-23-07; published 10-24-07 [FR E7-20923]
Turbomeca S.A.; comments due by 11-20-07; published 9-21-07 [FR E7-18434]
Airworthiness standards:
Special conditions—
Adam Aircraft Industries Model A700; comments due by 11-19-07; published 9-18-07 [FR E7-18342]

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Automated toll collection systems; interoperability requirements, standards, or performance specifications; comments due by 11-19-07; published 9-20-07 [FR E7-18529]

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Brake hoses; technical amendments; comments due by 11-23-07; published 10-9-07 [FR E7-19467]

TRANSPORTATION DEPARTMENT
Pipeline and Hazardous Materials Safety Administration
Hazardous materials:
Fuel cell cartridges and systems; transportation onboard passenger aircraft in carry-on baggage; comments due by 11-19-07; published 9-20-07 [FR E7-18532]

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Medical and accident insurance benefits under qualified plans; tax treatment of payments; comments due by 11-19-07; published 8-20-07 [FR E7-16084]
Partner's distributive share; comments due by 11-20-07; published 8-22-07 [FR E7-16189]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2779/P.L. 110–115

To recognize the Navy UDT-SEAL Museum in Fort Pierce, Florida, as the official national museum of Navy SEALS and their predecessors. (Nov. 13, 2007; 121 Stat. 1293)

H.R. 3222/P.L. 110–116

Making appropriations for the Department of Defense for the

fiscal year ending September 30, 2008, and for other purposes. (Nov. 13, 2007; 121 Stat. 1295)

Last List November 13, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.