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Federal Register

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28844; Directorate Identifier 2007–CE–066–AD; Amendment 39–15261; AD 2007–23–15]

RIN 2120–AA64

Airworthiness Directives; Aeromot-Industria Mecanico Metalurgica Ltda. Model AMT–100/200/200S/300 Gliders

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

ACTION: Final rule.

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

It has been found the occurrence of incorrect use of the self-locking nuts in bolts subject to rotational loads in bolted fittings of some assemblies of metallic components. Such event may result in disconnection of those fittings, which jeopardizes the structural integrity of the aircraft or its flight controls.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

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

DATES: This AD becomes effective December 26, 2007.

On December 26, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 21, 2007 (72 FR 46580). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of incorrect use of the self-locking nuts in bolts subject to rotational loads in bolted fittings of some assemblies of metallic components. Such event may result in disconnection of those fittings, which jeopardizes the structural integrity of the aircraft or its flight controls.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires the replacement of washers, nuts, and bolts installed in the applicable assemblies with new bolts, washers, and castellated nuts with cotter pins.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 56 products of U.S. registry. We also estimate that it will take about 8 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $430 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $59,920 or $1,070 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–15 Aeromot-Industria Mecanico Metalurgica Ltda.: Amendment 39–15261; Docket No. FAA–2007–28844; Directorate Identifier 2007–CE–066–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following gliders in the table below that:

(1) Are certificated in any category; and

(2) Have not incorporated the actions in their entirety of Aeromot SBNo. 200–20–102, revision A, dated April 19, 2005; or Aeromot SB No. 200–20–102, revision B, dated January 23, 2006.

Models	Serial Nos.
AMT–100	100.001 through 100.003, 100.005 through 100.015, 100.017, 100.019, 100.022 through 100.039, and 100.041 through 100.044.
AMT–100 (modified to AMT–200)	100.004, 100.016, 100.018, 100.020, and 100.021.
AMT–200	200.040, 200.045 through 200.105, 200.108 through 200.111, 200.113 through 200.118, and 200.121.
AMT–200S	200.119, 200.122 through 200.124, and 200.126 through 200.161.
AMT–300	300.106, 300.107, 300.115, and 300.125.

Subject

(d) Air Transport Association of America (ATA) Code 51: Structures.

Reason

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

It has been found the occurrence of incorrect use of the self-locking nuts in bolts subject to rotational loads in bolted fittings of some assemblies of metallic components. Such event may result in disconnection of those fittings, which jeopardizes the structural integrity of the aircraft or its flight controls.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires the replacement of washers, nuts and bolts installed in the applicable assemblies with new bolts, washers and castellated nuts with cotter pins.

Actions and Compliance

(f) Unless already done, within the next 50 hours time-in-service (TIS) after December 26, 2007 (the effective date of this AD), following Aeromot Service Bulletin No. 200–20–102 Rev. B, dated January 23, 2006, install new bolts, washers, and castellated nuts with cotter pins in the following areas:

(1) Both main landing gear legs,

(2) Swivel tail wheel,

(3) Eye-bolt fittings located at firewall inside cabin,

(4) Left and right rudder pedal assembly,

(5) Bellcranks of the rudder cables assembly,

(6) Bellcranks of the propeller pitch control assembly, and

(7) Left and right wing hinge point.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Departamento de Aviacao Civil (DAC), which is the aviation authority for Brazil, AD No. 2005–12–01; and Aeromot Service Bulletin No. 200–20–102, Revision B, dated January 23, 2006, for related information.

Material Incorporated by Reference

(i) You must use Aeromot Service Bulletin No. 200–20–102, Revision B, dated January 23, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Aeromot, Av. das Industrias, 1290 Porto Alegre—RS—Brazil; telephone: +55 51 3357 8550; fax: +55 51 3371 1655.

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

Issued in Kansas City, Missouri, on November 7, 2007.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22176 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28955 Directorate Identifier 2007–CE–067–AD; Amendment 39–15260; AD 2007–23–14]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries Model DA 42 Airplanes

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

ACTION: Final rule.

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

> Recently, a double in-flight engine shut down incident occurred on a DA42 aircraft equipped with TAE125–01 engines. The BFU (German Accident Investigation Body) found the root cause to be a violation of the Airplane Flight Manual procedures (taking-off with an insufficiently charged main aircraft battery) and momentary low voltage in the electrical system of the aircraft when retracting the main landing gear. This has been the subject of Diamond Service Information (SI) 42–040 and a subsequent EASA Safety Information Notice, SIN 2007–08, issued on 18 April 2007.
>
> The TAE125–01 and TAE125–02–99 engines, approved for installation on the DA42, are FADEC (Full Authority Digital Engine Control) controlled and are not totally independent from the aircraft electrical power supply. A significant drop of the voltage causes simultaneously a reset of the FADEC on both engines with subsequent feathering of the propeller blades. In the case of an empty battery this scenario may be considered as catastrophic at the aircraft level.

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

DATES: This AD becomes effective December 26, 2007.

On December 26, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Peter L. Rouse, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4135; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 27, 2007 (72 FR 48948). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Recently, a double in-flight engine shut down incident occurred on a DA42 aircraft equipped with TAE125–01 engines. The BFU (German Accident Investigation Body) found the root cause to be a violation of the Airplane Flight Manual procedures (taking-off with an insufficiently charged main aircraft battery) and momentary low voltage in the electrical system of the aircraft when retracting the main landing gear. This has been the subject of Diamond Service Information (SI) 42–040 and a subsequent EASA Safety Information Notice, SIN 2007–08, issued on 18 April 2007.
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> The TAE125–01 and TAE125–02–99 engines, approved for installation on the DA42, are FADEC (Full Authority Digital Engine Control) controlled and are not totally independent from the aircraft electrical power supply. A significant drop of the voltage causes simultaneously a reset of the FADEC on both engines with subsequent feathering of the propeller blades. In the case of an empty battery this scenario may be considered as catastrophic at the aircraft level.
>
> The Thielert Aircraft Engines (TAE) Installation Manuals IM–02–01 Issue 4 and IM–02–02 Issue 1 have been revised to address this issue, which is the subject of EASA Airworthiness Directive (AD) 2007–0182.
>
> The present AD, regarding the new specifications introduced by the TAE Installation Manuals, mandates installation of additional Engine Control Unit (ECU) Backup Batteries to supply electrical power to the ECU, preventing high transient power drains from causing a short-term voltage drop when insufficient power from the main battery might exist.

Comments

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

Revision of Service Bulletin

On October 15, 2007, Diamond Aircraft Industries GmbH (Diamond) issued the revised Optional Service Bulletin (OSB) No. OSB–42–050/1. This revision clarifies that if Diamond Mandatory Design Change (MÄM) No. MÄM 42–240 is installed or if the aircraft is in compliance with Diamond Mandatory Service Bulletin (MSB) No. MSB–42–042, you must first uninstall Diamond MÄM No. MÄM 42–240 or Diamond MSB No. MSB–42–042 when accomplishing Diamond OSB No. OSB–42–050/1, dated October 15, 2007.

This revision also excludes aircraft that have installed Diamond Optional Design Change (OÄM) No. OÄM 42–074. Diamond OÄM No. OÄM 42–074 is a modification that places equipment in the same location as the batteries in Diamond OSB No. OSB–42–050/1, dated October 15, 2007. Aircraft with Diamond OÄM No. OÄM 42–074 installed will not be able to comply with Diamond OSB No. OSB–42–050/1, dated October 15, 2007. However, this AD still applies to aircraft with Diamond OÄM No. OÄM 42–074 installed.

To our knowledge there are currently no aircraft registered in the United States with Diamond OÄM No. OÄM 42–074 installed. Owner/operators seeking to import aircraft with Diamond OÄM No. OÄM 42–074 installed or seeking to install Diamond OÄM No. OÄM 42–074 in a U.S.-registered aircraft will need to contact Diamond for an alternative method of compliance (AMOC) to this AD or develop an AMOC, which must be submitted to the FAA for approval. We have revised the language from the proposed AD to require use of Diamond OSB No. OSB–42–050/1, dated October 15, 2007, and to add language requiring compliance with this AD if Diamond OÄM No. OÄM 42–074 is installed.

Revision of Work Instruction

On September 10, 2007, Diamond issued revised Work Instruction WI–OSB–42–050, Revision 2. This revision corrects a mistake in the instruction that would have caused a short circuit at the battery relay control. The revision also changes the diode wiring procedure to expose additional safety thread on the screws at the bottom of the instrument panel. Previously each cable had its own ring terminal, but now the two corresponding cables are crimped into one ring terminal. We have revised the language from the proposed AD to require you to use Diamond Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously. The change corrects an error in the work instruction, and this change does not increase the scope or the burden beyond that which was proposed in the NPRM.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 86 products of U.S. registry. We also estimate that it will take about 13 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $89,440 or $1,040 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–14 Diamond Aircraft Industries: Amendment 39–15260; Docket No. FAA–2007–28955; Directorate Identifier 2007–CE–067–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to DA 42 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 72: Engine.

Reason

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

Recently, a double in-flight engine shut down incident occurred on a DA42 aircraft equipped with TAE125–01 engines. The BFU (German Accident Investigation Body) found the root cause to be a violation of the Airplane Flight Manual procedures (taking-off with an insufficiently charged main aircraft battery) and momentary low voltage in the electrical system of the aircraft when retracting the main landing gear. This has been the subject of Diamond Service Information (SI) 42–040 and a subsequent EASA Safety Information Notice, SIN 2007–08, issued on 18 April 2007.

The TAE125–01 and TAE125–02–99 engines, approved for installation on the DA42, are FADEC (Full Authority Digital Engine Control) controlled and are not totally independent from the aircraft electrical power supply. A significant drop of the voltage causes simultaneously a reset of the FADEC on both engines with subsequent feathering of the propeller blades. In the case of an empty battery this scenario may be considered as catastrophic at the aircraft level.

The Thielert Aircraft Engines (TAE) Installation Manuals IM–02–01 Issue 4 and IM–02–02 Issue 1 have been revised to address this issue, which is the subject of EASA Airworthiness Directive (AD) 2007–0182.

The present AD, regarding the new specifications introduced by the TAE Installation Manuals, mandates installation of additional Engine Control Unit (ECU) Backup Batteries to supply electrical power to the ECU, preventing high transient power drains from causing a short-term voltage drop when insufficient power from the main battery might exist.

Actions and Compliance

(f) Unless already done, do the following actions within the next 100 hours time-in-service after December 26, 2007 (the effective date of this AD) or within 30 days after

December 26, 2007 (the effective date of this AD), whichever occurs first:

(1) Modify the engine electrical system by installing additional engine control unit (ECU) backup batteries following Diamond Aircraft Industries GmbH Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007, as referenced in Diamond Aircraft Industries GmbH Optional Service Bulletin No. OSB–42–050\1, dated October 15, 2007. If your aircraft has Diamond Aircraft Industries GmbH Optional Design Change No. OÄM 42–074 installed, you will need to show compliance with this paragraph through an alternative method of compliance (AMOC) in accordance with paragraph (g)(1) of this AD.

(2) Incorporate Diamond Aircraft Temporary Revision AMM–TR–OÄM–42–129, dated July 11, 2007, into the FAA-approved maintenance program (e.g., maintenance manual). The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(3) Update the airplane flight manual (AFM) by inserting a copy of Diamond Aircraft Temporary Revision TR–OÄM–42–129, dated July 11, 2007, into the AFM. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) We believe that the batteries specified in the MCAI do not fully address the unsafe condition for U.S. registered airplanes. The batteries specified in the MCAI only provide approximately 10 minutes of backup electrical power to the engine full authority digital engine controls (FADECs) in the event of an aircraft electrical failure. In accordance with 14 CFR 23.1353(h), the FAA requires a minimum of 30 minutes of backup electrical power for the engine FADECs in the event of an aircraft electrical failure. To fully address the unsafe condition, Diamond Aircraft Industries GmbH has developed different part numbers and procedures for U.S.-registered airplanes. These procedures require the installation of larger capacity batteries than the MCAI required. The batteries specified in Diamond Aircraft Industries GmbH Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007, will provide a minimum of 30 minutes of backup electrical power for the engine FADECs when installed in accordance with Diamond Aircraft Industries GmbH Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007. We have discussed this difference with EASA, and they accepted that the FAA's view is different to require installation of larger capacity batteries.

(2) Diamond Aircraft Industries GmbH Optional Service Bulletin No. OSB–42–050\1, dated October 15, 2007, excludes aircraft with Diamond Aircraft Industries GmbH OÄM No. OÄM 42–074 installed because Diamond Aircraft Industries GmbH OÄM No. OÄM 42–074 adds equipment that is in the same location as the batteries in Diamond Aircraft Industries GmbH Optional Service Bulletin No. OSB–42–050\1, dated October 15, 2007. The unsafe condition still needs to be addressed in aircraft with Diamond Aircraft Industries GmbH OÄM No. OÄM 42–074 installed. Therefore, this AD does apply to aircraft with Diamond Aircraft Industries GmbH OÄM No. OÄM 42–074 installed and owners/operators of aircraft with Diamond Aircraft Industries GmbH OÄM No. OÄM 42–074 installed will need to seek an AMOC for those aircraft.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Peter L. Rouse, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4135; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2007–0183, dated July 2, 2007; Diamond Aircraft Industries GmbH Optional Service Bulletin No. OSB–42–050\1, dated October 15, 2007; Diamond Aircraft Industries GmbH Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007; Diamond Aircraft Temporary Revision AMM–TR–OÄM–42–129, dated July 11, 2007; and Diamond Aircraft Temporary Revision TR–OÄM–42–129, dated July 11, 2007, for related information.

Material Incorporated by Reference

(i) You must use Diamond Aircraft Industries GmbH Optional Service Bulletin No. OSB–42–050\1, dated October 15, 2007, and Diamond Aircraft Industries GmbH Work Instruction WI–OSB–42–050, Revision 2, dated September 10, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto–Straβe 5, A–2700 Wiener Neustadt; telephone: +43 2622 26700; fax: +43 2622 26780; e-mail: *office@diamond-air.at.*

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

Issued in Kansas City, Missouri, on November 7, 2007.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22177 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0198; Directorate Identifier 2007–CE–085–AD; Amendment 39–15262; AD 2007–23–16]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company, Model 525B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Model 525B airplanes. This AD requires you to incorporate electrical power relay circuit protection kit part number (P/N) SB525B–24–02. This AD results from both the need to protect aircraft wiring left unprotected in the original design and a report of a Model 525B airplane experiencing in-flight loss of numerous systems, tripped circuit breakers, and burned wiring adjacent to the power distribution panel. We are issuing this AD to correct an incorrect wiring installation and to provide short-circuit protection for all wiring from the aircraft power distribution system. This condition could result in burned wiring

and loss of various aircraft electrical systems.

DATES: This AD becomes effective on December 19, 2007.

On December 19, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by January 22, 2008.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *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.

To get the service information identified in this AD, contact The Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; *telephone*: (316) 517–5800; *fax:* (316) 942–9006.

To view the comments to this AD, go to *http://www.regulations.gov*. The docket number is FAA–2007–0198; Directorate Identifier 2007–CE–085–AD.

FOR FURTHER INFORMATION CONTACT: Raymond N. Johnston, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; *telephone:* (316) 946–4197; *fax:* (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

Cessna issued Service Bulletin SB525B–24–02, dated January 10, 2007, to add fuses to the emergency electrical power relay circuits to protect aircraft wiring left unprotected in the original design. Since issuance of that service bulletin, the FAA received a report from Cessna of a Model 525B airplane experiencing an in-flight direct short between aircraft direct current (DC) power and ground with loss of numerous systems, tripped circuit breakers, and burned wiring adjacent to the power distribution panel.

Cessna determined that a wiring alteration done following Cessna Citation Service Bulletin SB525B–24–02, dated January 10, 2007, contributed to this direct short between aircraft DC power and ground. The service bulletin had incorrect alteration instructions, which if implemented, could cause a direct short between aircraft DC power and ground.

Failure or opening of power bus limiters in conjunction with incorporation of that service bulletin may result in loss of numerous systems and burned aircraft wiring. The instructions and wiring diagrams call for incorrectly connecting 28V DC to an annunciator panel where there should be a ground. Terminal 2 of circuit breaker HZ050 is left with no wiring connected. This results in a direct short.

Cessna revised the service bulletin to include correct alteration instructions that would fully address the unsafe condition of unprotected wiring in the original design.

This condition, if not corrected, could result in burned wiring and loss of various aircraft electrical systems.

Relevant Service Information

We reviewed Cessna Citation Service Bulletin SB525B–24–02, Revision 1, dated October 4, 2007. The service information describes procedures for incorporating electrical power relay circuit protection kit P/N SB525B–24–02. The manufacturer intends that the actions specified in the service information adequately address the unsafe condition.

FAA's Determination and Requirements of this AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to incorporate electrical power relay circuit protection kit P/N SB525B–24–02.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because this condition, if not corrected, could result in burned wiring and loss of various aircraft electrical systems. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2007–0198; Directorate Identifier 2007–CE–085–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of 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 concerning this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–23–16 Cessna Aircraft Company: Amendment 39–15262; Docket No. FAA–2007–0198; Directorate Identifier 2007–CE–085–AD.

Effective Date

(a) This AD becomes effective on December 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 525B, serial numbers 0001 through 0013 airplanes, that are certificated in any category.

Unsafe Condition

(d) This AD results from both the need to protect aircraft wiring left unprotected in the original design and a report of a Model 525B airplane experiencing in-flight loss of numerous systems, tripped circuit breakers, and burned wiring adjacent to the power distribution panel. We are issuing this AD to correct an incorrect wiring installation and to provide short-circuit protection for all wiring from the aircraft power distribution system. This condition could result in burned wiring and loss of various aircraft electrical systems.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
Incorporate electrical power relay circuit protection kit part number SB525B–24–02	At whichever of the following occurs first: (1) Within the next 30 days after December 19, 2007 (the effective date of this AD); or (2) Within the next 10 hours time-in-service after December 19, 2007 (the effective date of this AD).	Follow Cessna Citation Service Bulletin SB525B–24–02, Revision 1, dated October 4, 2007.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), 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: Raymond N. Johnston, Aerospace Engineer, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; *telephone:* (316) 946–4197; fax: (316) 946–4107. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(g) You must use Cessna Citation Service Bulletin SB525B–24–02, Revision 1, dated October 4, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277–7706; *telephone:* (316) 517–5800; *fax:* (316) 942–9006.

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

Issued in Kansas City, Missouri, on November 7, 2007.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22304 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0179; Directorate Identifier 2007–SW–36–AD; Amendment 39–15264; AD 2007–19–52]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2007–19–52, which was sent previously to all known U.S. owners and operators of the specified Bell Helicopter Textron Canada Limited (BHTC) model helicopters by individual letters. This AD requires replacing each affected tail

rotor blade (blade) with an airworthy blade with a serial number not listed in the Rotor Blades, Inc. (RBI), attachment to the BHTC Alert Service Bulletin (ASB), listed in the applicability section of this AD. This amendment is prompted by three incidents in which blade tip weights were slung from blades during flight causing significant vibration. The actions specified are intended to prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Effective December 5, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–19–52, issued on September 14, 2007, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 5, 2007.

Comments for inclusion in the Rules Docket must be received on or before January 22, 2008.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- *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.

You may get the service information identified in this AD from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272.

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

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On September 14, 2007, the FAA issued Emergency AD 2007–19–52 for the specified BHTC model helicopters, which requires replacing each affected part-numbered and serial-numbered blade with an airworthy blade with a serial number not listed in the RBI attachment to the BHTC ASB, listed in the applicability section of this AD. That action was prompted by three incidents in which blade tip weights were slung from the blades during flight causing significant vibration. The failures have occurred on blades being returned to service from RBI, from as short as 12 minutes since repair to as long as 400 hours time-in-service. An investigation indicates that the tip weights were missing the adhesive that should have been applied during the weight-and-balance process on these blades. This condition, if not corrected, could result in loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on these helicopter models. Transport Canada advises of three reports of balance weights departing from the blades during flight. They also advise that they determined in the investigation that the unsafe condition results from the loss of the tip weights and that the failure can occur at any time.

BHTC has issued the following Alert Service Bulletins (ASBs):

- No. 206–07–116, dated September 11, 2007, for BHTC Model 206 A/B series helicopters;
- No. 206L–07–148, dated September 11, 2007, for BHTC Model 206L series helicopters;
- No. 222–07–106, Revision A, dated September 13, 2007, for BHTC Model 222 and 222B helicopters;
- No. 222U–07–77, Revision A, dated September 13, 2007, for BHTC Model 222U helicopters;
- No. 230–07–38, Revision A, dated September 13, 2007, for BHTC Model 230 helicopters;
- No. 407–07–81, dated September 11, 2007, for BHTC Model 407 helicopters;
- No. 427–07–18, dated September 11, 2007, for BHTC Model 427 helicopters; and
- No. 430–07–41, Revision A, dated September 13, 2007, for BHTC Model 430 helicopters.

All of the ASBs contain a letter from RBI indicating that certain blades processed by RBI may be missing the adhesive applied to the tip weight screws during the weight and balance process. Transport Canada classified the ASBs as mandatory and issued AD No. CF–2007–21, dated September 13, 2007, to ensure the continued airworthiness of these helicopters in Canada.

Paragraph (a) of the AD states that you must replace any affected blade with an airworthy blade with a serial number not listed in the applicability section of this AD. The serial numbers are not directly listed in the applicability section of this AD. The ASBs for the various model helicopters are listed in the applicability section. The affected part and serial numbers are listed in the RBI attachment to each of the BHTC ASBs listed in the applicability section of this AD. We have clarified that language in the AD and have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other BHTC model helicopters of these same type designs, the FAA issued Emergency AD 2007–19–52 to prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter. The AD requires before further flight, removing and replacing each affected blade with an airworthy blade. The actions must be accomplished for the blade part numbers with serial numbers listed in the RBI attachment to the ASBs described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, removing and replacing each affected blade with an airworthy blade is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on September 14, 2007, to all known U.S. owners and operators of the specified BHTC model helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that this AD will affect 3741 helicopters of U.S. registry, and it will take about 2 hours to determine if a blade is affected per helicopter at an average labor rate of $80 per work hour. The ASB contains a warranty statement that owners or operators of Bell helicopters who comply with the instructions in the ASB will be eligible to return defective blades identified by serial number in the compliance section to their nearest RBI facility for inspection and repair at no cost. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $589,560, assuming all shipping, inspection, and repair costs are paid by RBI or Bell.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under ADDRESSES. Include ''Docket No. FAA–2007–0179; Directorate Identifier 2007–SW–36–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of 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 with FAA personnel concerning this AD. Using the search function of the docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Regulatory Findings

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

For the reasons discussed above, I certify that the 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 AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2007–19–52 Bell Helicopter Textron Canada Limited: Amendment 39–15264. Docket No. FAA–2007–0179; Directorate Identifier 2007–SW–36–AD.

Applicability: Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 helicopters, with a tail rotor blade (blade) having a part number and serial number as listed in the following Bell Helicopter Textron Alert Service Bulletins (ASBs), installed, certificated in any category.

ASB No.	Revision	Date	Helicopter model
206–07–116		September 11, 2007	206A and 206B.
206L–07–148		September 11, 2007	206L, L–1, L–3, and L–4.
222–07–106	A	September 13, 2007	222 and 222B.
222U–07–77	A	September 13, 2007	222U.
230–07–38	A	September 13, 2007	230.
407–07–81		September 11, 2007	407.
427–07–18		September 11, 2007	427.
430–07–41	A	September 13, 2007	430.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, replace any affected blade with an airworthy blade with a serial number not listed in the Rotor Blade, Inc. (RBI), attachment to an ASB listed in the applicability section of this AD.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Regulations and Guidance Group, FAA, *ATTN:* Sharon Miles, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) Each affected blade is identified by serial number as listed in the Rotor Blade, Inc., letter attached to Bell Helicopter Textron Alert Service Bulletin (ASB) Nos. 206–07–116, 206L–07–148, 407–07–81, and 427–07–18, all dated September 11, 2007; and ASB Nos. 222–07–106, 222U–07–77, 230–07–38, and 430–07–41, all Revision A, all dated September 13, 2007. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–2007–21, dated September 13, 2007.

(e) This amendment becomes effective on December 5, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–19–52, issued September 14, 2007, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on October 31, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–22416 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0180; Directorate Identifier 2007-SW–37–AD; Amendment 39–15265; AD 2007–19–53]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A–1, 205B, 210, 212, 412, 412EP, and 412CF Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2007–19–53, which was sent previously to all known U.S. owners and operators of the specified Bell Helicopter Textron, Inc. (BHTI) model helicopters by individual letters. This AD requires replacing each affected tail rotor blade (blade) with an airworthy blade with a serial number not listed in the applicability of this AD. This AD is prompted by three incidents in which blade tip weights were slung from the blades during flight causing significant vibration. The actions specified by this AD are intended to prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Effective December 5, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–19–53, issued on September 14, 2007, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 22, 2008.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- *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.

You may get the service information identified in this AD from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272.

EXAMINING THE DOCKET: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: On September 14, 2007, the FAA issued Emergency AD 2007–19–53 for the specified model helicopters, which requires replacing each affected part-numbered and serial-numbered blade with an airworthy blade with a serial number not listed in the applicability of this AD. That action was prompted by three incidents in which blade tip weights were slung from the blades during flight causing significant vibration. The failures have occurred on blades being returned to service from Rotor Blades, Inc. (RBI), from as short as 12 minutes since repair to as long as 400 hours time-in-service. An investigation indicates that the tip weights were missing the adhesive that should have been applied during the weight-and-balance process on these blades. This condition, if not corrected, could result in loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

BHTI has issued the following Alert Service Bulletins (ASB):

- No. 204–07–61 for BHTI Model 204 helicopters,
- No. 205–07–95 for BHTI Model 205 helicopters,
- No. 205B–07–46 for BHTI Model 205B helicopters,
- No. 212–07–125 for BHTI Model 212 helicopters, and
- No. 412–07–123 for BHTI Model 412 helicopters.

All the ASBs are dated September 11, 2007, and contain a letter from RBI indicating certain blades processed by RBI may be missing the adhesive applied to the tip weight screws during the weight and balance process. Emergency AD 2007–19–53 had the Model 230 helicopters incorrectly linked to ASB No. 412–07–123; that ASB is for Model 412 helicopters. We have made that correction in this AD and determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Since the unsafe condition described is likely to exist or develop on other specified BHTI model helicopters of these same type designs, the FAA issued Emergency AD 2007–19–53 to prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter. The AD requires replacing each affected blade with an airworthy blade. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability or structural integrity of the helicopter. Therefore, replacing each affected blade with an airworthy blade is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on September 14, 2007, to all known U.S. owners and operators of the specified BHTI model helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that this AD will affect 1013 helicopters of U.S. registry, and it will take about 2 hours to determine if a blade is affected per helicopter at an average labor rate of $80 per work hour. The ASB contains a warranty statement that owners or operators of Bell helicopters who comply with the instructions in the ASB will be eligible to return defective blades identified by serial number in the compliance section to their nearest RBI facility for inspection and repair at no cost. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $162,080, assuming all shipping inspection and repair costs are paid by RBI or Bell.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under ADDRESSES. Include ''Docket No. FAA–2007–0180; Directorate Identifier 2007–SW–37–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of 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 with FAA personnel concerning this AD. Using the search function of the docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477–78).

Regulatory Findings

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

For the reasons discussed above, I certify that the 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 AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2007–19–53 Bell Helicopter Textron, Inc.: Amendment 39–15265. Docket No. FAA–2007–0180; Directorate Identifier 2007–SW–37–D.

Applicability: Model 204B, 205A, 205A–1, 205B, 210, 212, 412, 412EP, and 412CF helicopters, with a tail rotor blade (blade), having a part and serial number as listed in the following table, installed, certificated in any category.

Part No.	Serial No.
204–011–702–015	AFS–12703, AFS–12893, AFS–23525, or AFS–23573.
204–011–702–121	A–22020.
212–010–750–105FM	A–10090, A–10836, A–11207, or A–11332.
212–010–750–113	A–14953, A15090, or CS–12702.
212–010–750–113FM	A–12240, A–12296, A–12640, A–12670, A–12789, A–13033, A–13096, A–13134, A–13199, A–13264, or A–13366.
212–010–750–133	A15602.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the blade tip weight, loss of a blade, and subsequent loss of control of the helicopter do the following:

(a) Before further flight, replace any affected blade with an airworthy blade with a serial number not listed in the applicability section of this AD.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Certification Office, FAA, ATTN: Michael Kohner, Aviation Safety Engineer, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783, for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) This amendment becomes effective on December 5, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–19–53, issued September 14, 2007, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on October 31, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–22439 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

Proposed Rules

Federal Register
Vol. 72, No. 223
Tuesday, November 20, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29336; Directorate Identifier 2007–NM–143–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

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

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

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM. The NPRM proposed the adoption of a new airworthiness directive for all Airbus Model A300, A310, and A300–600 series airplanes. That NPRM invites comments concerning the proposed requirements for revising the Emergency Procedures sections of the airplane flight manuals to advise the flightcrew of new procedures for emergency evacuation. This reopening of the comment period is necessary to provide additional opportunity for public comment on the proposed requirements of that NPRM.

DATES: We must receive comments on this proposed AD by December 20, 2007.

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD for all Airbus Model A300, A310, and A300–600 series airplanes. The NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55124). The NPRM proposed to require revising the Emergency Procedures sections of the airplane flight manuals to advise the flightcrew of new procedures for emergency evacuation. The NPRM action invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD.

Actions Since NPRM Was Issued

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to reopen the comment period for 30 days to receive additional comments.

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

Comments Due Date

We must receive comments on this AD action by December 20, 2007.

Issued in Renton, Washington, on November 8, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22634 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29334; Directorate Identifier 2006–NM–268–AD]

RIN 2120–AA64

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

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

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

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM. The NPRM proposed the adoption of a new airworthiness directive for certain Airbus Model A330 airplanes and A340–200 and –300 series airplanes. That NPRM invites comments concerning the proposed requirements for the inspection of the fuselage to identify possible permanent skin repairs and permanent longitudinal lap joint repairs and to apply the associated corrective actions. This reopening of the comment period is necessary to provide additional opportunity for public

comment on the proposed requirements of that NPRM.

DATES: We must receive comments on this proposed AD by December 20, 2007.

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

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

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD for certain Airbus Model A330 airplanes and A340–200 and –300 series airplanes. The NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55108). The NPRM proposed to require the inspection of the fuselage to identify possible permanent skin repairs and permanent longitudinal lap joint repairs and to apply the associated corrective actions. The NPRM action invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD.

Actions Since NPRM was Issued

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to reopen the comment period for 30 days to receive additional comments.

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

Comments Due Date

We must receive comments on this AD action by December 20, 2007.

Issued in Renton, Washington, on November 8, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22632 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29337; Directorate Identifier 2007–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ Airplanes

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

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

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM. The NPRM proposed the adoption of a new airworthiness directive for all BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ airplanes. That NPRM invites comments concerning the proposed requirements for repetitive detailed visual inspections for corrosion, pitted fasteners, or pillowing of the APU heat shield and surrounding skin and, if applicable, removal of the heat shield and repair. This reopening of the comment period is necessary to provide additional opportunity for public comment on the proposed requirements of that NPRM.

DATES: We must receive comments on this proposed AD by December 20, 2007.

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

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

For service information identified in this AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD for all BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ airplanes. The NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55122). The NPRM proposed to require repetitive detailed visual inspections for corrosion, pitted fasteners, or pillowing of the APU heat shield and surrounding skin and, if applicable, removal of the heat shield and repair. The NPRM action invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD.

Actions Since NPRM Was Issued

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to reopen the comment period for 30 days to receive additional comments.

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

Comments Due Date

We must receive comments on this AD action by December 20, 2007.

Issued in Renton, Washington, on November 8, 2007.

Ali Bahrami,

Manager,Transport Airplane Directorate,Aircraft Certification Service.

[FR Doc. E7–22631 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29331; Directorate Identifier 2007–NM–136–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB–Fairchild SF340A (SAAB/SF340A) and SAAB 340B Airplanes

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

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

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM. The NPRM proposed the adoption of a new airworthiness directive for certain Saab Model SAAB–Fairchild SF340A (SAAB/SF340A) and SAAB 340B airplanes. That NPRM invited comments concerning the proposed requirements for doing repetitive ultrasonic inspections to detect cracking in the axle adaptor, replacing the axle adaptor if necessary, and ultimately doing the terminating action of inspecting and modifying the main landing gear shock strut and axle adaptors. This reopening of the comment period is necessary to provide additional opportunity for public comment on the proposed requirements of that NPRM.

DATES: We must receive comments on this proposed AD by December 20, 2007.

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

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

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION: We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD for certain Saab Model SAAB–Fairchild SF340A (SAAB/SF340A) and SAAB 340B airplanes. The NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55116). The NPRM proposed to require doing repetitive ultrasonic inspections to detect cracking in the axle adaptor, replacing the axle adaptor if necessary, and ultimately doing the terminating action of inspecting and modifying the main landing gear shock strut and axle adaptors. The NPRM action invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD.

Actions Since NPRM Was Issued

Since we issued the NPRM, the DOT's Docket Management System (DMS) was replaced by the Federal Docket Management System (FDMS). FDMS is a government-wide, electronic docket management system, which contains the public dockets and is the method used for submitting comments on the overall regulatory, economic, environmental, and energy aspects of proposed rulemaking actions. However, due to the service disruption caused by the transition from DOT's DMS to the FDMS, the docket material was not posted on the FDMS until November 1, 2007. Therefore, we have determined that the public was not provided adequate opportunity to submit comments on the NPRM. As a result, we have decided to reopen the comment period for 30 days to receive additional comments.

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

Comments Due Date

We must receive comments on this AD action by December 20, 2007.

Issued in Renton, Washington, on November 8, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–22630 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. OST 2007–28522]

RIN 2139–AA13

Revision of Airline Service Quality Performance Reports and Disclosure Requirements

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Transportation (DOT) is proposing to collect additional data elements when flights are cancelled, diverted, or experience gate returns. The additional proposed data elements would fill in data gaps giving the Department, the industry, and the public a more accurate portrayal of on-ground delays after flights depart the gate but prior to the time they take off and after flights land but before they reach the gate.

DATES: Written comments should be submitted on or before January 22, 2008.

ADDRESSES: You may submit comments identified by DOT Docket ID Number OST 2007–28522 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Identify docket number, OST 2007–28522, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, RTS–42, Research and Innovative Technology Administration, Bureau of Transportation Statistics, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or e-mail *bernard.stankus@dot.gov.*

SUPPLEMENTARY INFORMATION: DOT invites air carriers and other interested persons to participate in this rulemaking by submitting written comments or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data.

Background

The Department's rule requiring airlines that account for at least one percent of the domestic scheduled passenger revenues to submit service quality performance reports, 14 CFR part 234, was first issued on September 9, 1987 (52 FR 34071). At that time, close to 40 percent of all flights were either late or cancelled. On-time performance reporting created a market-based incentive for carriers to improve their service and scheduling practices. The immediate result of this action was an improvement in carriers' on-time performance. For the remainder of 1987, the industry had an on-time arrival rate of over 74 percent.

In 1995, the Department added additional data elements to the reporting system to enable the Federal Aviation Administration (FAA) to identify choke points within the air traffic control system (60 FR 66722, December 26, 1995). Aircraft tail number, wheels-off time and wheels-on time gave the FAA information concerning aircraft routings through the air traffic control system and detailed data on tarmac and airborne delays. In addition, the department required air carriers to report delays related to mechanical problems.

In 1999 and 2000, airline delays increased dramatically with the increase in airline operations. Consumer complaints concerning flight delays increased by 18% from 1999 to 2000. Section 227 of the Aviation Investment and Reform Act for the 21st Century (Air-21; See Pub. L. 106–181, 114 Stat. 61) called upon the Secretary of Transportation to disclose to the public the causes of delayed and cancelled flights. On July 25, 2000, the Department's Office of Inspector General (IG) issued a report *Air Carrier Flight Delays and Cancellations* (Report Number CR 2000–112). In its report, the IG recommended that DOT provide consumers, on a monthly basis, information about the major causes of flight delays and cancellations. During this period, the Air Transport Association of America also petitioned the Department to report the causes of delays and cancellations. In August 2000, an Air Carrier On-time Reporting Advisory Committee was established to make recommendations on causal reporting. The committee recommended four delay causes—Air Carrier, Extreme Weather, National Aviation System, and Late Arriving Aircraft. After notice and comment on the matter, in November 2002, the Department adopted a final rule that required carriers to report the causes of delays in these four categories, along with a fifth category, Security. (67 FR 70535, November 25, 2002.)

The occurrence in late 2006 and early 2007 of significantly long on-ground delays, particularly those involving flights that departed the gate but were delayed taking off and those that had landed but were delayed in reaching a gate, commonly referred to as ''tarmac delays,'' once again focused public attention on the Department's collection of Airline Service Quality Performance Reports under part 234. In reviewing the currently available data, we find that the Department can determine the extent of tarmac delays for most flights. However, these data cannot be used to capture tarmac delays in all instances since the reporting requirements were never intended for such a purpose. In this regard, when first adopted, the intent of part 234's reporting requirements was to obtain and provide to the public data involving on-time departures and arrivals, while later revisions to the rule were concerned with taxi times and the causes of flight delays. Currently, the Department cannot calculate tarmac delays for canceled or diverted flights.

For example, on February 14, 2007, during snowstorms in the Northeast, many flights departed the boarding gates only to spend many hours on the tarmac being de-iced and waiting for the weather to clear. When the weather failed to clear sufficiently, flights were cancelled. Under current reporting rules, if a flight is canceled, only that fact is required to be reported. Air carriers are not required to report the time of departure from a gate for canceled flights. Thus, under current reporting rules, air carriers do not provide information that enables the Department to determine whether a flight, that is ultimately canceled, experienced a tarmac delay and the extent of that delay. Similar data gaps exist for flights that are diverted to alternate airports, as was demonstrated by massive flight diversions that occurred in the Southwestern United States in late 2006 as a result of bad weather. Under the current reporting regulations, on-time reporting ceases when a flight is diverted from its scheduled routing. The carrier reports the scheduled departure and arrival times and the actual gate departure and wheels-off times. However, no information is reported on the arrival at the airport to which a flight is diverted or the departure from that alternate airport, and no information is reported on whether or not that flight ultimately arrived at its scheduled destination airport and, if it did, its time of arrival at that airport.

Moreover, in our review of the available data, we discovered that carriers were not uniformly reporting gate-departure times (i.e. when a flight that had departed a gate returned to the gate and subsequently departed the gate again for take-off). Some carriers reported the initial gate-departure time while others reported the ''second'' gate-departure time. There are advantages and disadvantages with both reporting methods.

By receiving data on only the first gate-departure time, the Department knows the time interval from when the aircraft initially departed the gate and when the aircraft ultimately departed the airport (wheels-off time). However, there are times when a carrier is credited with an on-time departure, when in reality the aircraft returned to the gate only to depart well after its originally-scheduled departure time. In such instances, the taxi-out time (and tarmac delay time) for the aircraft is also miscalculated, because the time the aircraft was parked at the gate awaiting its second gate departure, a time when passengers are often deplaned, would be counted in the taxi-out/tarmac delay time.

On the other hand, while reporting data on only the second gate-departure time might be seen as a more accurate assessment of delay in departure, this information would fail to capture the duration of any tarmac delay that occurred after the first gate departure, thereby disguising the true inconvenience to passengers on that flight.

Public Meeting

On June 20, 2007, the Bureau of Transportation Statistics (BTS)/Research and Innovative Technology Administration hosted a public meeting to discuss data gaps and inconsistencies in the reporting of on-time data. A summary of the public meeting is available in Docket No. OST 2007–28522. The airlines present at the meeting and the Air Transport Association (ATA), which represents 11 airlines that submit on-time data, fully supported the objectives of filling data gaps and improving the utility of on-time data. American Airlines recommended that any change to the reporting regulations ensure that: (1) The information is reported consistently by all carriers; (2) the potential for misinterpretation of the data is limited; and (3) the reporting burden on the air carriers is limited. ATA proposed that carriers report the last gate-departure time in the normal data field for gate-departure time and create a new field where the carriers would report the initial gate-departure time when there is a return-to-gate situation. ATA also proposed that BTS create another field for total time on tarmac for multiple gate departures.

Various consumer groups expressed the opinion that the current system was providing misleading information by understating tarmac delays. The Aviation Consumer Action Project (ACAP) stated that the delay statistics are so incomplete or inaccurate as to be misleading or deceptive to the public. ACAP objects to the way carriers report cancellations and diversions: specifically, it objects to the fact that no delay minutes are assigned to cancelled and diverted flights. Also, ACAP is of the view that, rather than requiring airlines to track the delay minutes of aircraft, the public would better be served by knowing the delay suffered by each passenger. For instance, a flight could arrive 50 minutes late causing some passengers to miss connecting flights. The overall delay experienced by these passengers likely would be much greater than the 50 minutes of aircraft delay reported to BTS.

On June 20, 2007, Congresswomen Jean Schmidt sent a letter to Secretary Mary Peters commending the Department's action to review on-time reporting, and recommending that the Department collect complete information on gate returns, and cancelled and diverted flights.

As a follow up to the public meeting, BTS asked the reporting air carriers to provide answers to the following questions:

1. For Gate Returns, do you collect or have access to:

The number of times a plane returns to the gate?

The time the plane leaves and returns to the gate for each gate departure/return?

The number of minutes a plane stays on the tarmac for all gate returns until the final departure or cancellation?

In the case where a plane takes off and returns to the gate, the number of minutes the plane stays in the air (i.e., is there a wheels-on and wheels-off time)?

The cause for the gate return(s)?

2. For Cancelled Flights:

No additional questions.

3. For Diverted Flights, do you collect or have access to:

If the plane lands at an alternative airport, the airport's three letter code?

The number of minutes the plane stays on the tarmac at the alternative airport?

The wheels-on time at the alternative airport?

The cause of the diversion?

If the passengers are not deplaned, the wheels-off time when the flight resumes?

If the passengers are deplaned, the time the plane arrives at the gate?

Whether the flight continues on to the original destination airport?

If yes, what is the plane's departure date, gate departure time, and wheels-off time?

For all continuation flights, what are the wheels-on and gate arrival time at the original destination airport?

The answers of those carriers that responded to the questions lead us tentatively to conclude that the requested data can be collected with a couple of exceptions. Some carriers apparently do not currently retain information on how long an aircraft sits on the tarmac before the flight is ultimately cancelled. Other carriers apparently do not currently record the cause of gate returns or flight diversions. Nevertheless, the general opinion expressed by those carriers responding is that with some reprogramming to the individual carriers' internal systems, all the data could be collected and retrieved. ATA responded by proposing the addition of five data elements:

(1) Gate Departure Time—first time out at origin airport.

(2) Total ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.

(3) Average ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.

(4) Total ground time away from gate at divert and destination airport(s)—actual minutes.

(5) Average ground time away from gate at divert and destination airport(s)—actual minutes.

ATA requested that any changes to the reporting requirements be made at the same time and that the implementation of the changes become effective no sooner than 6 months after the Department issues a new Accounting and Reporting Directive on the new reporting system. ATA also offered to participate in an industry working group comprised of DOT and interested carrier officials, much like the group that successfully collaborated on the reporting of the causes of delay.

Need for Improved Reporting and Disclosure

The Department believes that the Airline Service Quality Performance reporting system needs to be revised in order to provide consumers with a complete picture of tarmac delays. The current system also does not provide information on whether diverted flights ultimately reach their intended destination. The Department proposes to make the following revisions to its reports required pursuant to Part 234:

Current Data Fields

1. For gate/air returns and cancellations—carriers would report the last gate departure as the Gate Departure Time (Actual).

2. For diverted flights that ultimately reach their destination, carrier would report:

- Gate Arrival Time (Actual) at destination airport.
- Difference in Minutes Between Official Airline Guide (OAG) and Scheduled Arrival Time.
- Actual Gate to Gate Time in Minutes.
- Arrival Delay Difference in Minutes Between Actual Arrival Time and Computer Reservation System (CRS) Scheduled Arrival Time.
- Wheels-On Time (actual) at destination airport.
- The Minutes Late for the proper Delay Code(s).

New Data Elements

Cancellations and Gate/Air Returns

1. For gate/air returns, first gate-departure time at origin airport.

2. Total ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.

3. Average ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.

New Data Elements

Diverted Flights

1. Three letter code of airport for diverted airport(s).

2. Wheels-on Time at diverted airport.

3. Gate Arrival Time at diverted airport.

4. Gate Departure Time at diverted airport.

5. Wheels-off Time at diverted airport.

Technical Directive

BTS plans to issue a technical reporting directive in combination with a final rule. In the development of the directive, BTS would like to work with the air carriers to form a pilot group for submitting the new data elements. With proper testing, we hope to ensure that we would be collecting the required data in the most efficient manner possible for both BTS and the air carriers.

Tracking Individual Passenger Delay

We agree with ACAP that the airline quality service reports currently required to be filed do not capture the delays experienced by individual passengers when a missed connection, cancellation or diversion occurs. With the very high passenger loads on aircraft, it is becoming increasingly more difficult for passengers to rebook a flight. The current reporting system required under Part 234 was designed, however, to track aircraft and airline operations. When delays occur there are two types of delayed passengers: non-disrupted and disrupted. The non-disrupted passenger completes the flight itinerary without suffering a missed connection, diversion or cancellation. The delay minutes of a non-disrupted passenger are relatively easy to calculate.

The disrupted passenger either misses a connecting flight, or experiences a cancelled or diverted flight. The Department does not have the data available to accurately assign flight delay minutes to disrupted passengers as information is lacking on how the passenger completed the journey or even if the passenger completed their journey. Time-sensitive passengers may abandon their trip plans and return home while others may remain at the airport awaiting the next available flight. Tracking the movement of individual passengers and assigning delay minutes to individuals is difficult, if not impossible, and could be seen by some as an invasion of privacy. We believe the cost of tracking individual passenger movements would outweigh the benefit of assigning a delay time to a disrupted passenger.

Rulemaking Notices and Analyses

Economic Summary

Executive Order 12866

Under Executive Order No. 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to 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.

It has been determined that this proposed action is a ''significant regulatory action'' [or non-significant if OMB agrees] under Executive Order No. 12866. The proposal has high Executive, Congressional and public interest.

This Executive Order also requires each agency to write regulations that are simple and easy to understand. To the extent possible, this proposed rule meets these criteria.

Cost/Benefits

Congress has proposed that BTS expand the reporting system to capture all operational data on gate returns, cancelled and diverted flights (see H.R. 2881, the FAA Reauthorization Act of 2007). Carriers have commented that the cost for programming to provide additional data on gate returns, cancelled and diverted flights could range from $10,000 to $60,000 per carrier. Using the high estimate, compliance to this rule could cost the industry $1.2 million. It is difficult to assign a dollar value to the intangible benefits derived from the rule. Consumers will have more accurate data for making their transportation selections. The FAA will have complete data on all long tarmac delays.

Regulatory Flexibility Act

This Act requires agencies to analyze the economic impact of regulatory changes on small entities. The carriers that are required to report ASQP data are all large air carriers with annual operating revenues exceeding $600 million. Thus, this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Trade Agreements Act

This Act prohibits agencies from setting standards that create unnecessary obstacles to foreign commerce of the United States. ASQP data are for domestic operations only and have no impact on the foreign commerce of U.S. carriers.

Unfunded Mandates Reform Act of 1995

This Act requires agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that include a Federal mandate likely to result in the expenditure by State, local, or tribal government. This proposed rule imposes no expenditures on State, local or tribal governments.

Executive Order 13132, Federalism

The Department has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this proposed action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Paperwork Reduction Act

The Department has submitted a copy of the new information requirements in this proposed rule to the Office of Management and Budget for review. Based on carrier comments, we are estimating a first year increase in reporting burden of 900 hours per carrier or an industry increase of 18,000 hours. After the carriers have revised their systems, reporting burden should be reduced slightly in the future. We request that carriers provide estimates of what they perceive as increased costs and burdens from this proposed action.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda each April and October. The RIN Number 2139–AA13 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 234

Air carriers, Reporting and recordkeeping requirements.

Accordingly, the U.S. Department of Transportation proposes to amend 14 CFR Chapter II as follows:

PART 234—[AMENDED]

1. The authority citation for part 234 is revised to read as follows:

Authority: 49 U.S.C. 329 Secs. 41708 and 41709.

2. Section 234.4 is amended by adding paragraphs (a)(22) through (a)(29) and revising paragraph (b) to read as follows:

§ 234.4 Reporting of on-time performance.

(a) * * *

(22) For gate/air returns, first gate-departure time at origin airport.

(23) Total ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.

(24) Total number of gate returns.

(25) Three letter code of airport where diverted flight landed.

(26) Wheels-on Time at diverted airport.

(27) Gate Arrival Time at diverted airport.

(28) Gate Departure Time at diverted airport.

(29) Wheels-off Time at diverted airport.

(b) When reporting the information specified in paragraph (a) of this section for diverted flights, a reporting carrier shall use the original scheduled flight number and the origin and destination airport codes except for items cited in paragraph (a)(25) of this section.

* * * * *

Issued in Washington, DC, on November 15, 2007.

M. Clay Moritz, Jr.,

Acting Assistant Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 07–5759 Filed 11–15–07; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234, 253, 259, and 399

[Docket No. DOT–OST–2007–0022]

RIN No. 2105–AD72

Enhancing Airline Passenger Protections

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

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The Department of Transportation (DOT or Department) is seeking comment on whether it should adopt a rule to enhance airline passenger protections in the following seven ways: require carriers to adopt contingency plans for lengthy tarmac delays and incorporate them in their contracts of carriage, require carriers to respond to consumer problems, deem operating a chronically delayed flight to be unfair and deceptive, require carriers to publish delay data, require carriers to publish complaint data, require on-time performance reporting for international flights, and require carriers to audit their compliance with their customer service plans. We are proposing that most of these measures cover certificated or commuter air carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats. We are proposing that one measure cover the largest U.S. and foreign carriers and that two other measures cover the largest U.S. carriers.

DATES: Comments should be filed by January 22, 2008. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2007–0022 by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2007–0022 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Betsy L. Wolf or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *betsy.wolf@dot.gov* or *blane.workie@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

Beginning in December of 2006 and continuing through the early spring, weather problems kept more than a few aircraft sitting for hours on airport tarmacs. Many passengers were stranded on these aircraft for periods of three hours, six hours, and in some cases even longer. At the request of the Secretary of Transportation, the Department's Office of the Inspector General has reviewed and reported on these incidents, focusing its report on how the carriers can improve passenger comfort and convenience during these extremely long delays on the ground.

Another significant issue for passengers is the high incidence of less extreme flight delays. In the first seven months of this year, only 72.23 percent of flights arrived on time, a lower percentage for this period than in any of the past 12 years.

The industry and interested observers have attributed both the marathon tarmac waits and the epidemic of flight delays to a number of factors in addition to the weather. Some posit that because carriers are now flying full planes and have no excess capacity in their systems and thus no margin for error in the event of problematic weather, revenue concerns mandate that they delay a flight until it can take off, even for hours if necessary, rather than cancel it. Some fault the air traffic control system and the airports for acting too slowly to relieve capacity and operational constraints. Some attribute the overload problem to the widespread replacement of larger aircraft with smaller regional jets scheduled at higher frequencies and call for the Federal Aviation Administration (FAA) to require carriers to trim their schedules. Others point to the steep rise in the use of private jets.

Some of the capacity and operational constraints that have undoubtedly contributed to tarmac delays and other flight delays are being addressed by the FAA and certain airports in other contexts. In the meantime, however, this Department is seeking comment on several measures to address passengers' concerns. 49 U.S.C. 41712, in concert with 49 U.S.C. 40101(a)(4) and 40101(a)(9) and also 49 U.S.C. 41702, gives us the authority and the responsibility to protect consumers from unfair and deceptive practices and ensure safe and adequate service in air transportation. We are therefore seeking comment on eight potential solutions, described below, intended to ameliorate some of the problems facing passengers without creating undue burdens for the carriers. We also invite commenters to suggest other consumer protection measures that might help alleviate the problems that passengers face. Commenters should bear in mind the Department's responsibility to strike the proper balance between protecting consumers and affording carriers as much leeway as possible to choose their responses to the rapid developments that confront them in the marketplace.

1. Require Contingency Plans for Lengthy Tarmac Delays and Incorporate Them in Their Contracts of Carriage

We seek comment on amending 14 CFR part 253 to require any certificated or commuter air carrier [1] that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to develop a contingency plan for long ground delays on the tarmac for all of its flights (including those that use aircraft with 30 or fewer seats) and to incorporate this plan in its contract of carriage. Among other things, each such plan would have to include the following:

- The maximum tarmac delay that the carrier will permit,
- The amount of time on the tarmac that triggers the plan's terms,
- Assurance of adequate food, water, and lavatory facilities, and medical attention if needed while the aircraft remains on the tarmac,
- Assurance of sufficient resources to implement the plan, and
- Assurance that the plan has been coordinated with airport authorities at medium and large hub airports.

With the contingency plan incorporated in the contract of carriage, passengers would be able to sue in court for damages if a carrier failed to adhere to its plan. Carriers would also be required to make their complete contracts of carriage (including contingency plans) available on their Web sites. Further, carriers would be required to retain for two years the following information about any on-ground delay that either triggers their contingency plans or lasts at least four hours: (1) The length of the on-ground delay, (2) the cause of the delay, and (3) the actions taken to minimize hardships for passengers, including the provision of food and water, the maintenance of lavatories, and medical assistance. The regulation would specify that the Department would consider failure to do any of the following to be an unfair and deceptive practice within the meaning of 49 U.S.C. 41712 and subject to enforcement action: (1) Adopt a contingency plan and incorporate it in the contract of carriage, (2) implement the plan as written, (3) make the plan available on line, or (4) retain information about every on-ground delay that either triggers the contingency plan or lasts at least four hours.

We believe that requiring the retention of records for tarmac delays that last at least four hours would enhance the Department's ability to monitor, analyze, and address the problems associated with long delays. We have chosen four hours as the threshold in order to foster consistency for purposes of analysis, given that carriers are likely to make disparate time choices for their own contingency plans. (We do not intend to suggest, nor are we proposing to adopt, a specific amount of time during or after which carriers must allow passengers to deplane. Rather, we expect each carrier to craft its own standard on this issue.) We invite comment on whether four hours is an appropriate delay duration for triggering this new recordkeeping requirement.

We are also not proposing at this time to have the Department review and approve carriers' contingency plans. We believe the better approach to be to allow the carriers to set the terms of their plans and rely on the legal system and our enforcement powers to ensure that the terms are followed. If this

[1] A certificated air carrier is a U.S. direct air carrier that holds a certificate issued under 49 U.S.C. 41102 to operate passenger and/or cargo and mail service or that holds an exemption to conduct direct passenger operations under 49 U.S.C. 41102. Air taxi operators or and commuter air carriers operating under 14 CFR part 298 are not certificated air carriers. Some carriers that would otherwise be eligible for air taxi or commuter status have opted to be certificated. A commuter air carrier is an air taxi operator that carries passengers on at least five round trips per week on at least one route between two or more points according to published flight schedules. *See* 14 CFR 298.2. An on-demand air taxi is an air taxi operator that carries passengers or property and is not a commuter air carrier as defined in 14 CFR part 298.

approach proves inadequate, we can always revise it.

We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences? Is it likely to succeed in protecting passengers from the conditions described above? If not, why not? What additional or different measures should we consider adopting? Would incorporation of the contingency plan in the contract of carriage give consumers adequate notice of what might happen in the event of a long delay on the tarmac? When prolonged delays occur, would these measures succeed in reducing the resultant uncertainty and discomfort for passengers? Should the types of carriers covered by the regulation be expanded or limited? What would be the cost or benefit of narrowing or expanding coverage? Should the requirement of coordinating the plan with airport authorities apply to all primary airports (i.e., commercial service airports that enplane more than 10,000 passengers annually) rather than only to medium hub airports (primary airports that enplane between 0.25 and 1 percent of total U.S. passengers) and large hub airports (primary airports that enplane at least 1 percent of total U.S. passengers)?

2. Require Carriers To Respond to Consumer Problems

We seek comment on adopting a new regulation, 14 CFR part 259, that among other things would require every certificated and commuter carrier that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to respond to mounting consumer problems in the following ways:

- At its system operations center and at each airport dispatch center, designate an employee who is responsible for monitoring the effects of flight delays, flight cancellations, and lengthy tarmac delays on passengers and who has input on decisions such as which flights are cancelled and which are subject to the longest delays,
- On its Web site, on all e-ticket confirmations, and, upon request, at each ticket counter and gate, make information available on filing a complaint with the carrier (name of person or office, address, and telephone number), and
- Send a response to each consumer complaint it receives within 30 days of receiving the complaint.

We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences? Should we require carriers to accept complaints via phone, letter and e-mail, or should the choice of complaint channels be left to each carrier? Would these procedures result in carriers' devoting adequate attention to the needs of passengers? If not, what additional or different measures would achieve this result? What specific responsibilities should the designated employee have? Is it reasonable to expect a carrier to provide a response within 30 days of receipt of a complaint? Should the types of carriers covered by the regulation be expanded or limited? What would be the cost or benefit of narrowing or expanding coverage?

3. Declare the Operation of Flights That Remain Chronically Delayed To Be an Unfair and Deceptive Practice and an Unfair Method of Competition

We seek comment on amending 14 CFR 399.81 so that it sets forth the Department's enforcement posture on chronically delayed flights. First, the new text would define a chronically delayed flight as a flight by a covered carrier that operates at least 45 times in a calendar quarter and arrives more than 15 minutes late more than 70 percent of the time. We propose to define a covered carrier as a carrier that reports on-time performance data to the Department pursuant to 14 CFR part 234,—*i.e.*, a certificated U.S. carrier that accounted for at least 1% of domestic scheduled passenger revenue in the 12 months ending March 31. Second, the new text would specify that the Department considers a chronically delayed flight to be an unfair and deceptive practice and an unfair method of competition within the meaning of 49 U.S.C. 41712 if it is not corrected in a timely manner—*i.e.*, during the second calendar quarter following the one in which the flight is first chronically delayed.

We invite interested persons to comment on this proposal. What costs, if any, would it impose on carriers? Would it have any negative consequences? Does it strike the appropriate balance between passengers' need to have the best possible information about the real arrival time of a flight and the carriers' inability to control the weather and certain other factors that can contribute to delays? Commenters who think that it does not strike the appropriate balance should explain why and provide alternate proposals.

We tentatively consider that in setting the threshold for a chronically late flight as high as 70 percent and in allowing up to six months for the carrier to adjust its schedule, its operations, or both so that the flight comes below this threshold, we would not be creating undue burdens for carriers. When a carrier publishes a schedule, it assumes the obligation to adhere to it insofar as is feasible. Consumers buy transportation in reliance on a carrier's published schedule, and they have a right to expect that the carrier both intends to arrive at the promised time and can do so in most cases. Consumers' reliance on chronically inaccurate schedules works to their detriment both personally and professionally. Furthermore, a carrier's publication of a schedule that it does not achieve most of the time can harm its competitors. This in turn further harms consumers by reducing the number of travel options from which they can choose.

Commenters who think that the proposed standards would not result in an improvement of on-time performance should explain why and suggest alternate approaches. We also solicit comment on whether the definition of a chronically delayed flight should be expanded to include international scheduled passenger service to and from the United States operated by U.S. and foreign air carriers.

4. Require Carriers To Publish Delay Data on Their Web Sites

We seek comment on amending 14 CFR 234.11 to require airlines that report on-time performance to the Department pursuant to 14 CFR part 234 (*i.e.*, certificated U.S. carriers that account for at least 1% of the domestic scheduled passenger revenue) and online reservation services to include on their Web sites, at a point before the passenger selects a flight for purchase, the following information for each listed flight about its performance during the previous month:

- The percentage of arrivals that were on time,
- The percentage of arrivals that were more than 30 minutes late,
- Special highlighting if the flight was late more than 50 percent of the time, and
- The percentage of cancellations.

We invite interested persons to comment on this proposal. What costs would it impose on carriers and online reservation services? Would it have any negative consequences?

Would it help consumers make better-informed choices when booking flights? Would it increase carriers' incentives to correct problem flights through adjustments to their schedules or their operations, or both? What other information, if any, should this regulation require?

Would requiring carriers to post on-time flight performance information on their Web site give passengers adequate notice before booking about the likelihood of a flight's arriving on time? Should we require airline Web sites and reservation agents to disclose on-time flight information to consumers at the time of booking, without being asked? What would be the benefit or cost of such a requirement? Should any disclosure requirement be limited to flights that are chronically delayed or cancelled?

Should this regulation cover all on-line reservation services or only those of a certain size? If the latter, what threshold would be appropriate (in terms of revenue or number of employees)? Should the regulation cover more types of carriers? What would be the cost or benefit of expanding coverage?

5. Require Carriers To Publish Complaint Data on Their Web Sites

We seek comment on adopting a new regulation, 14 CFR part 259, that would also require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to publish complaint data on their Web sites. Each carrier would have to disclose the number of consumer complaints it has received within a defined time frame concerning subjects such as tarmac delays, missed connections, and the failure to provide amenities to passengers affected by a delayed or canceled flight. We ask interested persons to comment on this proposal. What costs would it impose on carriers? Would it have any negative consequences? Should we prescribe a uniform location for all carriers' Web sites, or should we leave this decision to the carriers? If the former, where should the data be posted? What complaint subjects should be covered by this requirement, and what time period would be appropriate? Would the proposed regulation help consumers make better-informed choices when booking flights? Would it increase carriers' incentives to avoid the problems that elicit complaints? Should the types of carriers covered by the regulation be increased or decreased? What would be the cost or benefit of narrowing or expanding coverage?

6. Require Carriers To Report On-Time Performance of International Flights

We seek comment on amending 14 CFR 234.4 and 234.11 to require carriers that report on-time performance to the Department pursuant to 14 CFR part 234 (*i.e.*, certificated U.S. carriers that account for at least 1% of the domestic scheduled passenger revenue) and the largest foreign carriers to report on-time performance for international flights to and from the United States. Our publication of these data would give consumers information about on-time performance to use in choosing international flights. We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences? Would the benefits of making this information available to the public outweigh the burdens that this requirement would impose on carriers that provide international service? How should we determine whether a foreign carrier is large (*e.g.*, by total revenue, by number of flights to and from the U.S.)? Should we devise a size threshold for foreign carriers similar to the current 1% threshold for U.S. carriers?

7. Require Carriers To Audit Their Adherence to Their Customer Service Plans

We seek comment on adopting a new regulation that would require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to audit their adherence to their own customer service plans. This proposal tracks a recommendation from the Department's Inspector General, who found carrier failings in this area. We solicit comment on the costs and benefits of self-audits, suggestions for appropriate auditing standards, including whether the carriers should be required to hire independent auditors to conduct the audits, and suggestions for how the Department might verify compliance without auditing the airline's practices itself. Further, we solicit comment on whether we should require any covered carrier that does not have a customer service plan in place to adopt one and, if so, what provisions such plans should include. For example, should they include some or all of the provisions of the 12-point Airline Service Commitment made by 13 members of the Air Transport Association (which can be found at *http://www.airlines.org/customerservice/passengers/Customers_First.htm*)? Also, should we require that carriers incorporate their customer service plans in their contracts of carriage?

Regulatory Notices

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

This action has been determined to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget under that Order. A preliminary discussion of the proposed solutions to enhance airline passenger protections without creating undue burdens for the carriers is presented above. We are soliciting comments on the potential costs and benefits of the proposed solutions. On the cost side, we recognize that many of the measures suggested in this ANPRM would impose costs for both implementation and operation on the entities that its proposed requirements would cover. We have asked commenters to answer a variety of questions in order to elicit practical information about the nature and magnitude of these costs. The benefits we seek to achieve entail relieving consumers of the burdens they now face due to lengthy ground delays, chronically delayed flights, and other problems discussed in the ANPRM. The benefits would be achieved by affording consumers significantly more information than they have now about delayed and cancelled flights and about how carriers will respond to their needs in the event of lengthy ground delays. Making this information accessible should not only alleviate consumers' difficulties during long delays but also enable them to make better-informed choices when booking flights.

B. Executive Order 13132 (Federalism)

This Advance Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This notice does not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13084

This notice has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because none of the options on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The regulatory initiatives discussed in this ANPRM would have some impact on some small entities but we do not believe that it would have a significant impact on a substantial number of small entities. We invite comment to facilitate our assessment of the potential impact of these initiatives on small entities.

E. Paperwork Reduction Act

The ANPRM proposes several new collections of information that would require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (49 U.S.C. 3501 *et seq.*) The ANPRM solicits comment on requiring certificated and commuter airlines that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to retain for two years the following information about any ground delay that triggers their contingency plan or lasts at least four hours: (1) The length of the delay, (2) the cause of the delay, and (3) actions taken to minimize hardships for passengers. The Department plans to use this information to conduct reviews of incidents involving long delays on the ground and to identify any trends and patterns that may develop. The ANPRM further proposes to require the collection of flight delay data from certain U.S. and foreign air carriers regarding their flights to and from the U.S. and also to require certain U.S. carriers to compile and publish complaint information. We invite comments regarding any aspect of these information collections, including the following: (1) The necessity and utility of the information collection, (2) the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information collected, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued this 15th day of November, 2007, at Washington, DC.

Michael W. Reynolds,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 07–5760 Filed 11–15–07; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 250

[Docket No. DOT–OST–01–9325]

RIN No. 2105–AD63

Oversales and Denied Boarding Compensation

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department of Transportation (DOT or Department) is proposing to amend its rules relating to oversales and denied boarding compensation to increase the limits on the compensation paid to ''bumped'' passengers, to cover flights by certain U.S. and foreign air carriers operated with aircraft seating 30 to 60 passengers, which are currently exempt from the rule, and to make other changes. Such changes in the rule, if adopted, would be intended to maintain consumer protection commensurate with developments in the aviation industry.

DATES: Comments are requested by January 22, 2008. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–01–9325 by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–01–9325 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202–366–5952 (voice), 202–366–5944 (fax), *tim.kelly@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations on certain U.S. and foreign carriers who are involuntarily denied boarding (''bumped'') from their flights because they have been oversold. In most cases, bumped passengers are entitled to compensation. Part 250 contains limits on the amount of compensation that is required to be provided to passengers who are bumped involuntarily. The rule does not apply to flights operated with aircraft with a design capacity of 60 or fewer passenger seats.

In adopting the original rule in the 1960's, the Civil Aeronautics Board (the Department's predecessor in aviation economic regulation) recognized the inherent unfairness in carriers selling more ''confirmed'' ticketed reservations for a flight than they have seats. Therefore, the CAB sought to reduce the number of passengers involuntarily denied boarding to the smallest practicable number without prohibiting deliberate overbooking or interfering unnecessarily with the carriers' reservations practices. Air travelers receive some benefit from controlled overbooking because it allows flexibility in making and canceling reservations as well as buying and refunding tickets. Overbooking makes possible a system of confirmed reservations that can almost always be honored. It allows airlines to fill more seats, reducing the pressure for higher fares, and makes it easier for people to obtain reservations on the flights of their choice. On the other hand, overbooking is the major cause of oversales, and the people who are inconvenienced are not those who do not show up for their flights, but passengers who have conformed to all carrier rules. The current rule allocates the risk of denied boarding among travelers by requiring airlines to solicit volunteers and use a boarding priority procedure that is not unjustly discriminatory.

In 1981, the CAB amended the oversales rule to exclude from the rule all operations using aircraft with 60 or fewer passenger seats. (ER–1237, 46 FR 42442, August 21, 1981.) At the time of that proceeding, the impact of the rule on carriers operating small aircraft was found to be significant. If a passenger was denied boarding on a typical small aircraft short-haul flight and subsequently missed a connection to a long-haul flight, the short-haul carrier usually had to compensate the passenger in an amount equal to twice the value of the passenger's remaining ticket coupons to his or her destination, subject to a maximum limitation. For example, if the short-haul fare was $50 and the connecting long-haul fare was $500, the first carrier often had to pay the passenger denied boarding compensation in an amount far greater than $50, depending on whether alternate transportation could be arranged to arrive within a short time, despite the minimal fare that the first carrier received for its flight. The problem was exacerbated by the fact that most commuter airline flights at the time were on small turboprop and piston engine aircraft which were affected by weight limitations in high temperature/humidity conditions to a greater extent than jets and, therefore, might require bumping even when the carrier did not book beyond the seating capacity of the aircraft.

Part 250 has tended to reduce passenger inconvenience and financial loss occasioned by overbooking without imposing heavy burdens on the airlines or significant costs on the traveling public. In focusing only on the treatment of passengers whose boarding is involuntarily denied, we have avoided regulating carriers' reservations practices. Overall, it appears that the rule has served a useful purpose; however, in light of recommendations from various sources, including Congress and major airlines themselves, we are proposing to revise certain aspects of the rule that may be outdated. In view of the passage of time since the rule was last revised and changes in commercial air travel over that time, we are seeking comment on whether we should increase the compensation maximums and extend the rule to cover a broader range of aircraft, or whether we should adopt other more fundamental changes to the rule. The Department is also seeking comment on certain other changes of lesser impact that are under consideration.

The Current Denied Boarding Compensation Rule

The purpose of the Department's denied boarding compensation rule is to balance the rights of passengers holding reservations with the desirability of allowing air carriers to minimize the adverse economic effects of ''no-shows'' (passengers with reservations who cancel or change their flights at the last minute). The rule sets up a two-part system. The first encourages passengers to voluntarily relinquish their confirmed reservations in exchange for compensation agreed to between the passenger and the airline. The second requires that, where there is an insufficient number of volunteers, passengers who are bumped involuntarily be given compensation in an amount specified in the rule. In addition, the Department requires carriers to give passengers notice of those procedures through signs and written notices provided with tickets and at airports, and to report the number of passengers denied boarding to the Department on a quarterly basis.

The Civil Aeronautics Board (CAB) first required payments to bumped passengers 45 years ago. In Order No. E–17914, dated January 8, 1962, the CAB conditioned its approval of ''no-show penalties'' for confirmed passengers on a requirement that bumped passengers be compensated. An oversales rule was adopted in 1967 as 14 CFR Part 250 (ER–503, 32 FR 11939, August 18, 1967) and revised substantially in 1978 and 1982 after comprehensive rulemaking proceedings (ER–1050, 43 FR 24277, June 5, 1978 and ER–1306, 47 FR 52980, November 24, 1982, respectively). The key features of the current requirements are as follows:

(1) In the event of an oversold flight, the airline must first seek volunteers who are willing to relinquish their seats in return for compensation offered by the airline.

(2) If there are not enough volunteers, the airline must use non-discriminatory procedures (''boarding priorities'') in deciding who is to be bumped involuntarily.

(3) Most passengers who are involuntarily bumped are eligible for denied boarding compensation, with the amount depending on the price of each passenger's ticket and the length of his or her delay. If the airline can arrange alternate transportation that is scheduled to arrive at the passenger's destination within 2 hours of the planned arrival time of the oversold flight (4 hours on international flights), the compensation equals 100% of the passenger's one-way fare to his or her next stopover or final destination, with a $200 maximum. If the airline cannot meet the 2 (or 4) hour deadline, the compensation rate doubles to 200% of the passenger's one-way fare, with a $400 maximum. This compensation is in addition to the value of the passenger's ticket, which the passenger can use for alternate transportation or have refunded if not used.

(4) There are several exceptions to the compensation requirement. Compensation is not required if the passenger does not comply fully with the carrier's contract of carriage or tariff provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation; if an aircraft of lesser capacity has been substituted for operational or safety reasons; if the passenger is offered accommodations in a section of the aircraft other than that specified on the ticket, at no extra charge (a passenger seated in a section for which a lower fare is charged is entitled to an appropriate refund); or if the carrier arranges comparable transportation, at no extra cost to the passenger, that is planned to arrive at the passenger's next stopover or final destination not later than 1 hour after the planned arrival time of the passenger's original flight.

(5) A passenger who is denied boarding involuntarily may refuse to accept the denied boarding compensation specified in the rule and seek monetary or other compensation through negotiations with the carrier or by private legal action.

(6) Carriers must post counter signs and include notices with tickets to alert travelers of their overbooking practices and the consumer protections of the rule. In addition, they must provide a detailed written notice explaining their oversales practices and boarding priority rules to each passenger involuntarily denied boarding, and to any other person requesting a copy.

(7) Every carrier must report, on a quarterly basis, data on the number of denied boardings on flights that are subject to Part 250.

Discussion

On July 10, 2007, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) seeking comment on several issues associated with the oversales rule. We received over 1,280 comments in response to the ANPRM. About 20 of the comments were from organizations, with the rest from individuals. Most of the comments from the organizations, including those from air carriers and organizations representing air carriers, expressed the opinion that the rule serves a useful purpose and had benefited the industry and the public. Many of the individual comments did not express an opinion on the specific issues discussed in the ANPRM but rather urged that overbooking be banned, described their own negative air travel experiences, or commented on other issues (e.g., flight delays).

In this Notice of Proposed Rulemaking we are not proposing to ban overbooking as many individual commenters urged. As indicated in the section above entitled ''The Current Denied Boarding Compensation Rule,'' air travelers receive some benefit from controlled overbooking. Overbooking makes possible a system of confirmed reservations that can almost always be honored. It allows airlines to fill more seats, reducing the pressure for higher fares, and makes it easier for people to obtain reservations on the flights of their choice. We are not aware of levels of consumer harm that require such a sweeping solution at this time, and banning overbooking is beyond the scope of our objectives in this proceeding. We believe that the additional oversale protections that we are proposing here will address the principal issues related to this regulation that require action by the Department.

The issues that were presented in the ANPRM and a summary of the comments appear below.

The Maximum Amount of Denied Boarding Compensation

It has been over 20 years since the rule was last revised, and the existing $200 and $400 limits on the amount of required denied boarding compensation for passengers involuntarily denied boarding have not been raised since 1978. The Department has received recommendations from various sources that it reexamine its oversales rule and, in particular, the maximum amounts of compensation set forth in the rule. In this regard, in a sense-of-the-Senate amendment to the Department of Transportation and Related Agencies Appropriations Act of 2000, Public Law 106–69, the Senate noted its sense that the Department should amend its denied boarding rule to double the applicable compensation amounts. Legislation has also been introduced in Congress to require the Department to review the rule's maximum amounts of compensation. (See S. 319, reported in the Senate April 26, 2001.) In addition, in his February 12, 2000, Final Report on Airline Customer Service Commitments, the Department's Inspector General (IG) recommended, among other things, that the airlines petition the Department to increase the amount of denied boarding compensation payable to involuntarily bumped passengers. In response thereto, and citing the length of time since the maximum amounts of denied boarding compensation were last revised, the Air Transport Association (the trade association of the larger U.S. airlines) filed a petition with the Department on April 3, 2001, requesting that a rulemaking be instituted to examine those amounts.[1] (Docket DOT–OST–01–9325). Most recently, the IG on November 20, 2006, issued his ''Report on the Follow-up Review Performed of U.S. Airlines in Implementing Selected Provisions of the Airline Customer Service Commitment'' in which the IG recommended that we determine whether the maximum denied boarding compensation (DBC) amount needs to be increased and whether the oversales rule needs to be extended to cover aircraft with 31 through 60 seats.

The CAB's decision in 1978 to double the maximum amount of denied boarding compensation to $400 was based on its determination that the previous maximum was inadequate to redress the inconvenience to bumped passengers and that the increase would provide a greater incentive to carriers to reduce the number of persons involuntarily bumped from their flights. Following promulgation of the amendment to the rule in 1978 requiring the solicitation of volunteers and doubling the compensation maximum, the overall industry rate of involuntary denied boardings per 10,000 enplanements in fact declined for many years. Until 2007, the rate for the past decade has been slightly below the level of involuntary bumping reported 10 years ago. In this regard, 55,828 passengers were involuntarily bumped from their flights in 2006 on the 19 largest U.S. airlines (carriers whose denied boarding rate is tracked in the Department's monthly Air Travel Consumer Report[2]). Additional passengers were bumped by other airlines, whose denied boarding rate is not tracked in this report but whose bumped passengers are subject to the maximum compensation rates in the DOT rule. The annual rate of involuntary denied boardings per 10,000 enplanements in 2006 for the carriers tracked in the report is the highest since 2000, and that trend continues in the rate for 2007 to date. Involuntary denied boarding rates from the Air Travel Consumer Report for the past ten years and 2007 to date appear below:

Year	Invol. DB's per 10,000 passengers
1997	1.06
1998	0.87
1999	0.88
2000	1.04
2001	0.82
2002	0.72
2003	0.86
2004	0.86
2005	0.89
2006	1.01
2007 through 3rd quarter	1.21

(The table above has been updated from the one published in the ANPRM to include data for 2007 to date.)

Likely contributing to this upward trend is the fact that flights are fuller: from 1978 to 2006 the system-wide load factor (percentage of seats filled) for U.S. airlines increased from 61.5% to 79.2%, with most of this increase taking place since 1994. The most-recently reported monthly load factors have hovered in the mid-80% range.

With respect to the denied boarding compensation limits, inflation has eroded the $200 and $400 limits that were established in 1978. Using the Consumer Price Index for All Urban Consumers (CPI–U, the basis for the inflation adjustor in the Department's domestic baggage liability rule, 14 CFR 254.6), the July 2007 ANPRM noted that

[1] It is important to note that the maximum involuntary denied boarding amounts set forth in Part 250 are amounts below which carriers cannot set their maximum compensation. Airlines have been and continue to be free, as a competitive tool, to set their maximum compensation levels at amounts greater than that provided in the Department's rule. With the exception of JetBlue Airways, whose recently changed policy is described below, we are not aware of any carrier that has elected to do so.

[2] This report tracks the denied boarding rate of air carriers that each account for at least 1% of domestic scheduled-service passenger revenues for the previous year. Consequently, the list of carriers whose performance is tracked in this report can change from year to year.

$400 in 1978 was worth $128 as of February 2007 ($125 as of October 2007). See the Bureau of Labor Statistics Inflation Calculator at *http://www.bls.gov/cpi/home.htm*. Stated another way, in order to have the same purchasing power today as in 1978, $400 would have needed to be $1,248 in February 2007 and $1,279 as of October 2007.

At the same time, however, air fares have not risen to the same extent as the CPI–U. While historical comparisons of air fares are problematic, one frequently-used index for changes in air fares is passenger yield. Yield is passenger revenue divided by revenue passenger miles—the revenue collected by airlines for carrying one passenger for one mile. According to the Air Transport Association, system-wide nominal yield (i.e., not adjusted for inflation) for all reporting U.S. air carriers was 8.29 cents per revenue passenger mile in 1978 and 12.00 cents per revenue passenger mile in 2005 (latest available data at the time of the ANPRM)—an increase of 44.8%. The figure for 2006, which became available after the ANPRM was published, is 12.69 cents, an increase of 53.1% from the 1978 figure.

Applying the CPI-U calculation to the current $200 and $400 DBC limits that were established in 1978 would produce updated limits of $624 and $1,248 respectively at the time of the ANPRM. However, the ANPRM noted that applying the 44.8% increase in passenger yield through 2005 to the current $200 and $400 limits would produce updated limits of $290 and $580 respectively ($306 and $612 if the 2006 yield figure is used). It is important to note that the $200 and $400 figures in Part 250 are merely *limits* on the amount of denied boarding compensation; the actual compensation rate is 100% or 200% of the passenger's fare (depending on how long he or she was delayed by the bumping). In the ANPRM, the Department requested comment on whether the maximums in the rule should be increased so that that a higher percentage of denied boarding compensation payments are not ''capped'' by the limits.

Consequently, in the ANPRM we sought comment on five options with respect to the limits on the amount of denied boarding compensation, as well as any other suggested changes:

(1) Increase the $200/$400 limits to approximately $624 and $1,248 respectively, based on the increase in the CPI as described above;

(2) Increase the $200/$400 limits to approximately $290 and $580 respectively, based on the increase in passenger yield as described above;

(3) Double the maximum amounts of denied boarding compensation from $200 to $400 and from $400 to $800;

(4) Eliminate the limits on compensation altogether, while retaining the 100% and 200% calculations;

(5) Take no action, i.e. leave the current $200/$400 limits in place.

It is important to note that none of these proposals would necessarily require carriers to offer more compensation to the great majority of passengers affected by overbooking because most such situations are handled through voluntary compensation, typically at the departure gate. Nor would they affect the significant proportion of involuntarily bumped passengers—possibly the majority—with fares low enough that the formula for involuntary denied boarding compensation would not reach the proposed new limits. Finally, even with respect to involuntarily bumped passengers whose denied boarding compensation might increase with higher maximums, many such passengers accept a voucher for future travel on that airline (usually in a face amount greater than the legally required denied boarding compensation) in lieu of a check. Carriers make such offers because vouchers do not have the same value as cash compensation given high rates of non-use and inventory-management restrictions.

Comments

The vast majority of the comments in the docket are from individuals (as opposed to organizations). On the issue of the denied boarding compensation monetary limits, 79 of these individual commenters favored option #1—increase these limits to approximately $624 and $1,248 based on the increase in the CPI. 20 of the individual commenters were in favor of option #3, doubling the current limits to $400 and $800. Another 146 individual commenters expressed the opinion that the current limits should be increased but did not cite a specific amount. Two individual commenters favored an increase in the limits based on the increase in passenger yield (air fares), and three said that the limits should be eliminated (option #4). None of the individual comments indicated that the Department should take no action (option #5).

In its comments, the Air Transport Association (which represents the larger U.S. airlines) presented arguments it said justify the practice of overbooking and keeping compensation level as they now are. ATA noted that on most oversold flights there are enough volunteers and consequently no involuntary denied boardings. The organization stated that the real cost of air fares (i.e., adjusted for inflation) has fallen since the denied boarding compensation limits were last adjusted. According to ATA, the current caps are likely to exceed the required compensation levels (i.e., 100% or 200% of the bumped passenger's fare) in the large majority of cases. ATA believes that no adjustment in the compensation caps is warranted at this time, but if there is an adjustment, it should be based on the change in yield (air fares) because, the association asserted, denied boarding compensation amounts have always been tied to the passenger's fare.

The International Air Transport Association, which represents international airlines worldwide, supported ATA's position that there should be no change in the limits. The Regional Airline Association shared this view as well. Like ATA, RAA went on to say that if the Department does adjust the limits it should do so based on the air fare/yield index rather than the CPI because denied boarding compensation has always been tied to airline ticket prices. The Association of Asia Pacific Airlines supported an increase in the caps based on the fare/yield index, for the same reasons cited by ATA and RAA.

The National Air Carrier Association commented that no change in the compensation limits is necessary. If the Department were to make a change, this organization said that it would reluctantly support an increase based on fares/yields (option #2) or eliminating the caps altogether (option #4). NACA noted that adopting option #4 would remove the need for periodic adjustments in the caps, which was another issue on which the ANPRM had sought comment.

The American Society of Travel Agents states that adjusting the compensation limits based on the CPI is workable but acknowledges a disconnect between air fares and the CPI. Consequently, ASTA favors doubling the current limits, to strike a balance between the CPI and yield options and because of the simplicity of this approach.

The Airports Council International—North America also favors doubling the caps, to $400 and $800. ACI–NA was concerned that the CPI option would set a limit that is inappropriately high while a limit based on air fares would capture only passengers with an ''average'' fare.

Qantas Airways and Qatar Airways supports an increase on the caps that is based on fares/yields. Air Pacific, JetBlue Airways, and Air Tahiti Nui oppose any increase, with the latter carrier emphasizing the industry's costs and slim profits. JetBlue, which notes that it does not intentionally oversell flights, points out that when it must unexpectedly deny boarding involuntarily, it pays the passenger $1,000—considerably more than the current regulatory formulas and limits and more than most of the proposed limits. JetBlue urges the Department to allow carrier competition to govern denied boarding compensation limits in this manner.

The International Airline Passengers Association advocates option #3, doubling the current limits. Like other commenters, it submits that air fares are not generally tied to inflation.

The Air Crash Victims Families Group advocated increasing the compensation limits ''to the standard/value existing at the time the Regulation is put into force'' without specifying a methodology for the update. This group also urged the Department to ban overbooking with respect to prepaid tickets, harmonize its rule with the oversales rule of the European Community, mandate uniform boarding priorities for all carriers, and eliminate the exception to compensation for passengers bumped as a result of substitution of aircraft of lesser capacity.

The Coalition for an Airline Passengers Bill of Rights suggests that the Department mandate denied boarding compensation in a flat amount of $1,000 regardless of the passenger's fare or the length of his/her delay—essentially the JetBlue policy.

As indicated earlier, in 2006 over 55,000 passengers were denied boarding involuntarily by the 19 carriers that were tracked at that time in the Department's Air Travel Consumer Report (i.e., the 17 largest U.S. air carriers and two voluntarily reporting carriers). We assume that an increase in the regulatory maximums would result in an increase in amounts paid to such passengers but we requested comment on the likely financial impact, including both the direct impact (increased cash compensation), and the indirect impact resulting from either lower overbooking rates or higher voluntary compensation levels. Although we received useful general comments, commenters provided very little data supporting the conclusion that any of the increases in denied boarding compensation on which we requested comment would have a significant financial impact on any segment of the industry.

Response to Comments

The Department has decided to propose to amend its oversales rule to double the limits on involuntary denied boarding compensation from $200 to $400 for passengers who are rerouted within two hours (four hours internationally) and from $400 to $800 for passengers who are not rerouted within these timeframes. As many commenters pointed out, there is a significant air-fare component to the denied boarding compensation formula (100%/200% of the bumped passenger's fare), and air fares have risen less than the CPI. As indicated above, system-wide nominal yield (not adjusted for inflation) for all reporting U.S. air carriers, which is a frequently used index for changes in air fares, was 8.29 cents per revenue passenger mile in 1978 and 12.69 cents per revenue passenger mile in 2006, an increase of 53.1%. Nonetheless, we will not propose the ''fares/yield'' option from the ANPRM as the sole method for updating the compensation caps.

Denied boarding compensation is intended in part to compensate for the passenger's inconvenience, lost time, and lost opportunities. The value of these considerations is linked to general inflation as well as to the cost of air fares. Therefore, the arguments of the carrier organizations about the decline in real (i.e., inflation-adjusted) air fares during that period are somewhat off the mark, because consumers live with some of the consequences of denied boarding in today's dollars, not 1978 dollars. As we indicated in the ANPRM, 30 years of inflation have also taken their toll on the value of the existing limits. As noted above, $400 in 1978 is worth $128 today, based on the change in the CPI–U. Therefore, we propose to base part of an increase in the compensation caps on the CPI–U.

By proposing to double the existing limits we would blend these two approaches. The proposed limits fall between the higher figures that would be produced by the CPI option and the lower numbers that would result from the ''fares/yield'' option. We seek comment on this proposal, including any comments and justifications that were not already provided in response to the ANPRM about alternative amounts or methodologies.

Periodic Adjustment of the Limits

In the ANPRM we also requested comment on whether we should amend the rule to include a provision for periodic adjustments to the denied boarding compensation maximums, as is required by our baggage liability rule (14 CFR part 254). As in the case of the baggage rule, we stated that the Department could review the CPI–U every two years, and adjust the maximum amounts accordingly. The new maximum DBC amounts could be rounded to the nearest $50, for simplicity. We suggested that any increase could be announced by publishing a notice in the **Federal Register** rather than first publishing a proposed rule to effectuate an increase. We requested comment on this approach.

Comments

All 34 of the individuals who commented on this issue believed that the compensation limits should be adjusted on a regular basis.

Many of the comments from organizations noted that denied boarding compensation is based on the bumped passenger's air fare and that air fares have risen more slowly than the CPI–U. RAA in particular stated that CPI can and often does move in the reverse direction of airline ''yields'' (average fares). ATA opposed any periodic adjustment in the compensation caps. ASTA supports periodic adjustment based on the CPI as described in the ANPRM. The Association of Asia Pacific Airlines opposes adding an adjustment mechanism to the rule and recommends amending the caps only when necessary. The Air Crash Victims Families Group and the Coalition for an Airline Passengers Bill of Rights support regular CPI-based adjustment of the caps. The International Airline Passengers Association states that the caps ''should be tied to a periodic review process to enable adjustments if necessary.''

Response to Comments

If the rule is adopted as proposed, we plan to institute a procedure of reviewing the compensation caps every two years. As part of this review, the Department would determine if the compensation caps should be adjusted based on both the CPI and the change in fare yields as we did in proposing the doubling of the caps to $400 and $800 in this NPRM (see above). We are, however, not proposing the approach described in the ANPRM of the periodic adjustment in the compensation caps being automatic (no additional comment period provided). Instead, we plan to institute a de novo rulemaking each time we seek to adjust the DBC maximum amount to allow the public an opportunity to provide input to the Department as to whether there are any reasons (not anticipated at the time of this rulemaking) not to increase the DBC maximum amounts based on DOT's analysis. We seek comment on the advantages or disadvantages of the Department continually adjusting the denied boarding compensation maximum amounts through notice and comment rulemaking. Also, commenters who think that the proposed two-year period for considering adjustments to the compensation caps is not appropriate, or believe the frequency should be more or less than two years, should explain why and suggest alternate approaches.

The Small-Aircraft Exclusion

The oversales rule originally issued by the CAB did not contain an exclusion for small aircraft. In 1981 that agency amended Part 250 to exclude operations with aircraft seating 60 or fewer passengers. The CAB determined that without this exclusion the denied boarding rule imposed a proportionately greater financial and operational burden on these small-aircraft operators than on carriers operating larger aircraft. In addition, because of the lower revenues generated by these small aircraft, the financial burden of denied boarding compensation placed certificated carriers operating aircraft with 60 or fewer seats at a competitive disadvantage relative to commuter carriers (non-certificated) operating similar equipment and on similar routes which were not subject to Part 250. The number of flights that was excluded by the amendment was small and most such flights were operated by small carriers that operated small aircraft exclusively. Thus, Part 250 currently applies to certificated U.S. carriers and foreign carriers holding a permit, or exemption authority, issued by the Department, only with respect to operations performed with aircraft seating more than 60 passengers.

While largely exempt from the denied boarding rule, the regional airline industry has experienced tremendous growth. According to the Regional Airline Association [3], passenger enplanements on regional carriers have increased more than 100% since 1995, and regional airlines now carry one out of every five domestic air travelers in the United States. RAA states that revenue passenger miles on regional carriers have increased 40-fold since 1978 and increased 17 percent from 2004 to 2005 alone. Regional jets have fueled much of the recent growth. According to RAA, from 1989 to 2004 the number of turbofan aircraft (regional jets) in the regional-airline fleet increased from 54 to 1,628 and regional jets now make up 59% of the regional-carrier fleet. Although many regional jets have more than 60 passenger seats and thus are subject to Part 250, the ubiquitous 50-seat and smaller regional jet models have driven much of the growth of the regional-carrier sector. Moreover, most regional jets are operated by regional carriers affiliated with a major carrier via a code-share agreement and/or an equity stake in the regional carrier. RAA asserts that 99% of regional airline passengers traveled on code-sharing regional airlines in 2005.

DOT statistics demonstrate the growth in traffic on flights operated by aircraft with 31 through 60 seats. The ANPRM provided statistics through the fourth quarter of 2005, but information for 2006 has subsequently become available. From the fourth quarter of 2002 (earliest available consistent data) to 4Q 2006 the number of flights using aircraft with 31 through 60 seats increased by 13.5% while the number of flights using aircraft with more than 60 seats rose only 3.4%. The number of passengers carried on flights using aircraft with 31 through 60 seats increased by 34.9% from 4Q 2002 through 4Q 2006, while the number of passengers carried on flights using aircraft with more than 60 seats rose by only 12.1% during that period.[4]

The increased use of jet aircraft in the 30-to-60 seat sector accompanied by the increase in the ''branding'' of those operations with the codes and livery of major carriers has blurred the distinction between small-aircraft and large-aircraft service in the minds of many passengers. There would seem to be little, if any, difference to a consumer bumped from a small aircraft or a large aircraft—the effect is the same. The Department therefore sought comment on whether we should extend the consumer protections of Part 250 to these flights (including flights of non-certificated commuter air carriers) and thus scale back the small-aircraft exception that was added to the rule in 1981. Specifically, the Department requested comment on whether it should reduce the seating-capacity exception for small aircraft from ''60 seats or less'' to ''less than 30 seats'' and add commuter carriers to the list of carriers to which Part 250 applies. Since the Department is aware that many regional carriers already voluntarily provide DBC to passengers bumped from their 30-to-60-seat aircraft, commenters were specifically asked to include in their comments data regarding oversales and denied boarding compensation in operations with aircraft having 30 through 60 seats by both certificated and non-certificated carriers, to the extent it is available.

Comments

All 155 individuals who commented on this issue advocated extending the rule to aircraft with 30 through 60 seats. A couple of these commenters said it should only be extended to aircraft that operate flights in the name of a major carrier. More than half of the 155 individual commenters on this issue said that the rule should also apply to aircraft with fewer than 30 seats.

Among the organizations that commented, ATA urges the Department not to change the current exception for aircraft with 60 or fewer seats. It asserts that these aircraft not only are more susceptible than larger airplanes to unpredictable operational constraints, but that these aircraft often operate at smaller airports where shorter runways can limit capacity on hot days. RAA echoed the latter comment and also quoted from the preamble to the Civil Aeronautics Board's 1981 oversales exemption for aircraft with 60 or fewer seats that acknowledged that these aircraft were ''assuming an increasingly significant role in the national air transportation system'' but concluded that the denied boarding compensation levels in the regulation would be a disproportionate penalty relative to the typical short-haul fare. RAA also noted the costs of complying with the same FAA rules as operators of larger aircraft and the disproportionate cost impact of suggested per-aircraft user fees.

The Air Carrier Association of America (which represents certain low-fare airlines), the American Society of Travel Agents, the Association of Asia Pacific Airlines and JetBlue Airways are in favor of extending the oversales rule to operations using aircraft with 30 through 60 seats for the reasons described in the ANPRM. JetBlue notes that even large aircraft are susceptible to load limits based on heat and altitude, and it asserts that 57% of the flights operated in August 2007 for American, Continental, Delta, Northwest, United and U.S. Airways were on regional jets. [Some of those regional jets no doubt have more than 60 seats and thus are already subject to the oversales rule, but many are not.] ACAA provided data showing that regional jets account for half or nearly half of all departures at most hub airports. It notes that regional jets with more than 60 seats are subject to the rule while those with 60 or fewer seats are not.

Peninsula Airways urges the Department not to extend the rule to

[3] See *www.raa.org.*

[4] DOT Form 41, schedule T–100.

commuter operations solely within the state of Alaska, or in the alternative to expand the rule only to regional jets, e.g., by extending the regulation to aircraft with 35 or more seats rather than 30 or more, thereby continuing to exempt the vast majority of propeller aircraft. Hawaii Island Air recommended that the rule only be extended to 30-through-60 seat aircraft operated by a carrier that also operates large aircraft.

Response to Comments

For the reasons described in the ANPRM, we are proposing to extend the applicability of the oversales rule to flights using aircraft with 30 or more seats. Since the time that the CAB exempted this sector of the industry from the rule in 1981, the vast majority of operations at this level have become affiliated and integrated with the ‘‘brand’’ of a major carrier. A higher percentage of these flights than was the case in 1981 are operated with larger aircraft in this under-60 seat exempted range (to a large extent regional jets), and are affected by weather constraints less frequently than aircraft with less than 30 seats. In recent times, aircraft with 30 through 60 seats have been substituted for larger airplanes on numerous routes. The vast majority of the traffic that would be covered by this initiative is carried by airlines that are owned by or affiliated with a major carrier or its parent company. Moreover, a significant amount, if not most, of the service on such flights is provided under a ‘‘fee-for-service’’ arrangement, where a major carrier dictates the market, the schedule, and the price of the flight, and the tickets may not even be sold under the regional carrier's code so that the passenger's contract of carriage covering the transportation is solely with the major carrier. In such circumstances, the flights are for all legal and practicable purposes flights of the major carrier, not the regional airline, in which case the major carrier is responsible for providing denied boarding compensation on the flights of the smaller carrier. While we are sensitive to the operational challenges faced by operators of aircraft with 30 through 60 seats, we now believe that consumers who purchase transportation in this aircraft class are entitled to the protections of the oversales rule. Because this is a proposal, however, we invite additional comment on the issue of the seating capacity of the aircraft to which the rule should apply.

Boarding Priorities and Notice to Volunteers

Boarding priority rules determine the order in which various categories of passengers will be involuntarily bumped when a flight is oversold. Part 250 states that boarding priority rules must not provide any undue or unreasonable preference. The IG in his 2000 report identified possible ambiguities in the Department's requirements regarding boarding priority rules, and he recommended that we provide examples of what we consider to be an undue or unreasonable preference. The IG was also concerned that the amounts of compensation provided passengers who are involuntarily bumped was in some cases less than the face value of vouchers given to passengers who volunteer to give up their seats. He therefore recommended, in addition to raising the maximum compensation amounts for involuntarily bumped passengers, as discussed above, that we require carriers to disclose orally to passengers, at the time the airline makes an offer to volunteers, what the airline is obligated to pay passengers who are involuntarily bumped.

Our boarding priority requirement was designed to give carriers the maximum flexibility to set their own procedures at the gate, while affording consumers protection against unfair and unreasonable practices. Thus, the rule (1) requires that airlines establish their own boarding priority rules and criteria for oversale situations consistent with Part 250's requirement to minimize involuntary bumpings and (2) states that those boarding priority rules and criteria ‘‘shall not make, give, or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust or unreasonable prejudice or disadvantage in any respect whatsoever.’’ (14 CFR 250.3(a))

Although we are not aware of any problems resulting from this rule as written, we agree that guidance regarding this provision would be useful to the industry and public alike.

Accordingly, in the ANPRM we requested comment on whether the Department should list in the rule, as examples of permissible boarding priority criteria, the following:

- A passenger's time of check in (first-come, first-served);
- Whether a passenger has a seat assignment before reaching the departure gate for carriers that assign seats;
- A passenger's fare;
- A passenger's frequent flyer status; and
- Special priorities for passengers with disabilities, within the meaning of 14 CFR part 382, or for unaccompanied minors.

We stated in the ANPRM that the five examples proposed here are illustrative only, and not exclusive. We did not intend by these examples to foreclose the use by carriers of other boarding priorities that do not give a passenger undue preference or unjustly prejudice any passenger.

Accurately notifying passengers of their rights in an oversale situation is important, so that they can make an informed decision. Part 250 already contains requirements designed to accomplish that objective and to protect passengers from being involuntarily bumped if they have not been accorded adequate notice. Section 250.2b(b) prohibits a carrier from denying boarding involuntarily to any passenger who was earlier asked to volunteer without having been informed about the danger of being denied boarding involuntarily and the amount of compensation that would apply if that occurred. While this provision would appear to provide adequate incentive for airlines to provide complete notice to passengers who are asked to volunteer, and to protect those passengers not provided such notice, we see some merit in making this notice requirement more direct. Accordingly, we seek comment on whether we should amend section 250.2b to affirmatively require that, no later than the time a carrier asks a passenger to volunteer, it inform that person whether he or she is in danger of being involuntarily bumped and, if so, the compensation the carrier is obligated to pay.

Comments

There were only a handful of individual comments on the issue of boarding priorities; most of them favored the Department's proposal. There was virtually no comment from individuals about the volunteer notice.

Most of the commenters from the airline industry and IAPA stated that it is not necessary to list specific permissible boarding priorities. Some of the industry commenters said that they do not oppose this as long as it's clear that the list is illustrative and does not restrict carriers from having other boarding priorities. (Boarding priorities must be disclosed in the written notice required by section 250.9 of the rule.) The Air Crash Victims Families Group urged the Department to mandate uniform boarding priorities for all carriers. The Coalition for an Airline Passenger Bill of Rights stated that carriers should be required to make boarding priorities more widely available; it also urges the Department to prohibit boarding priorities that are based on the passenger's fare.

The industry commenters as a group opposed the proposal to provide additional notice to volunteers, stating that it was unduly restrictive. The consumer organizations did not comment on this issue.

Response to Comments

For the reasons articulated in the ANPRM and summarized above, and consistent with the recommendation of the IG, we propose to revise the rule to affirmatively require that, no later than the time a carrier asks a passenger to volunteer, it inform that person whether he or she is in danger of being involuntarily bumped and, if so, the compensation the carrier is obligated to pay, and to list the following examples of permissible boarding priority criteria:

- A passenger's time of check in (first-come, first-served);
- Whether a passenger has a seat assignment before reaching the departure gate for carriers that assign seats;
- A passenger's fare;
- A passenger's frequent flyer status; and
- Special priorities for passengers with disabilities, within the meaning of 14 CFR part 382, or for unaccompanied minors.

As we stated in the ANPRM, we propose that these five examples be illustrative only, and not exclusive.

Reporting

Section 250.10 of the current rule requires all carriers that are subject to Part 250 to file a quarterly report (Form 251) on oversale activity. Due to staffing limitations, for many years the only carriers whose oversale data have been routinely reviewed, entered into an automated system, or published by the Department are the airlines that are subject to the on-time performance reporting requirement. Those are the U.S. carriers that each account for at least 1 percent of total domestic scheduled-service passenger revenues—currently 20 airlines (see 14 CFR 234). For a current list of these carriers, see the Department's *Air Travel Consumer Report* at *http://airconsumer.ost.dot.gov/reports/index.htm.* This report provides data for these airlines in four areas: On-time performance, baggage mishandling, oversales, and consumer complaints. The oversale data for that report are derived from the Form 251 reports mandated by Part 250. The data in the Form 251 reports filed by the other carriers is not keypunched, summarized, published, or routinely reviewed.

In the ANPRM the Department requested comment on whether it should revise section 250.10 to relieve all carriers of this reporting requirement except for the airlines whose data is being used, i.e., U.S. carriers reporting on-time performance under Part 234. Those airlines account for the vast majority of domestic traffic and bumpings, so the Department will still receive adequate information and the public will continue to have access to published data for the same category of carriers as before. Such action would be consistent with the Paperwork Reduction Act and the Regulatory Flexibility Act. It would also result in consistent carrier reporting requirements for all four sections of the Air Travel Consumer Report.

Comments

Only four of the individual commenters expressed an opinion on this issue; all four of them favored the Department's proposal. ATA and JetBlue believe that this reporting requirement should be retained. The other industry commenters supported the proposal to eliminate this requirement for all but the ATCT-reported carriers. The consumer organizations did not weigh in on this issue.

Response to Comments

For the reasons articulated in the ANPRM and summarized above, we propose to revise the rule to relieve all carriers of this reporting requirement except for ''reporting carriers'' as defined in 14 CFR 234.2 and any carrier that voluntarily submits data pursuant to section 234.7 of that part. At the present time this is 20 airlines.

Regulatory Notices

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

This action has been determined to be significant under Executive Order 12866 and the Department of Transportation Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget under that Order. A preliminary discussion of possible costs and benefits of the proposed rule is presented above and in the accompanying Regulatory Evaluation. The Regulatory Evaluation concluded that the benefits of the proposals appear to exceed the costs. A copy of the Regulatory Evaluation has been placed in the docket.

B. Executive Order 13132 (Federalism)

This Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This notice does not propose any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13084

This notice has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because none of the options on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. Certain elements of these proposed rules may impose new requirements on certain small air carriers, but the Department believes that the economic impact would not be significant. All air carriers have control over the extent to which the rule impacts them since they control their own overbooking rates. Carriers can mitigate the cost of denied boarding compensation by obtaining volunteers who are willing to give up their seat for less compensation than what the rule mandates for passengers who are bumped involuntarily, and by offering travel vouchers in lieu of cash compensation.

The vast majority of the traffic that would be covered by the oversales rule for the first time as a result of the options on which we seek comment is carried by airlines that are owned by or affiliated with a major carrier or its parent company. Moreover, a significant amount, if not most, of the service on such flights is provided under a ''fee-for-service'' arrangement, where a major carrier dictates the market, the schedule, and the price of the flight, and the tickets may not even be sold under the regional carrier's code so that the passenger's contract of carriage covering the transportation is solely with the major carrier. In such circumstances, the flights are for all legal and practical purposes flights of the major carrier, not the regional airline, in which case the major carrier is responsible for providing denied boarding compensation on the flights of the smaller carrier. The monetary costs of most of these options result in a corresponding dollar-for-dollar monetary benefit for members of the public who are bumped from their confirmed flights and for small businesses that employ some of them. The options provide an economic incentive for carriers to use more efficient overbooking rates that result in fewer bumpings while still allowing the carriers to fill seats that would go unsold as the result of ''no-show'' passengers. It is worth noting that one of the options on which we are seeking comment relieves an existing reporting requirement for all but the largest carriers. For all these reasons, I certify that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

The provisions that we are proposing impose no new information reporting or recordkeeping necessitating clearance by the Office of Management and Budget. They relieve a reporting requirement for many carriers that are currently subject to that requirement. One required handout that airlines distribute to bumped passengers would require minor revisions.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, we propose to amend 14 CFR part 250 as follows:

PART 250—[AMENDED]

1. The authority citation for part 250 continues to read as follows:

Authority: 49 U.S.C. chapters 401, 411, 413, 417.

2. Section 250.1 is amended by removing the definition of ''large aircraft'' and revising the definition of ''Carrier'' to read as follows:

§ 250.1 Definitions.

* * * * *

Carrier means:

(1) A direct air carrier, except a helicopter operator, holding a certificate issued by the Department pursuant to 49 U.S.C. 41102 or that has been found fit to conduct commuter operations under 49 U.S.C. 41738, authorizing the scheduled transportation of persons; or

(2) A foreign route air carrier holding a permit issued pursuant to 49 U.S.C. 41302, or an exemption from that provision, authorizing the scheduled foreign air transportation of persons.

* * * * *

3. Section 250.2 is revised to read as follows:

§ 250.2 Applicability.

This part applies to every carrier, as defined in § 250.1, with respect to flight segments using an aircraft that has a designed passenger capacity of 30 or more passenger seats, operating in interstate air transportation or foreign air transportation with respect to nonstop flight segments originating at a point within the United States.

4. In § 250.2b paragraph (b) is amended by removing the last sentence and adding a new first sentence to read as follows:

§ 250.2b Carriers to request volunteers for denied boarding.

* * * * *

(b) Every carrier shall advise each passenger solicited to volunteer for denied boarding, no later than the time the carrier solicits that passenger to volunteer, whether he or she is in danger of being involuntarily denied boarding and, if so, the compensation the carrier is obligated to pay if the passenger is involuntarily denied boarding.

5. Section 250.3(b) is added to read as follows:

§ 250.3 Boarding priority rules.

* * * * *

(b) The Department has determined that acceptable boarding priority factors may include, but are not limited to, the following:

(1) A passenger's time of check in;

(2) Whether a passenger has a seat assignment before reaching the departure gate for carriers that assign seats;

(3) The fare paid by a passenger;

(4) A passenger's frequent-flyer status; and

(5) A passenger's disability or status as an unaccompanied minor.

6. Section 250.5(a) is revised to read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier to whom this part applies as described in § 250.2 shall pay compensation to passengers denied boarding involuntarily from an oversold flight at the rate of 200 percent of the fare (including any surcharges and air transportation taxes) to the passenger's next stopover, or if none, to the passenger's final destination, with a maximum of $800. However, the compensation shall be one-half the amount described above, with a $400 maximum, if the carrier arranges for comparable air transportation [see section 250.1], or other transportation used by the passenger that, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover, or if none, the airport of the passenger's final destination, not later than 2 hours after the time the direct or connecting flight from which the passenger was denied boarding is planned to arrive in the case of interstate air transportation, or 4 hours after such time in the case of foreign air transportation.

* * * * *

7. Section 250.9(b) is revised to read as follows:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

* * * * *

(b) The statement shall read as follows:

Compensation for Denied Boarding

If you have been denied a reserved seat on (name of air carrier), you are probably entitled to monetary compensation. This notice explains the airline's obligation and the passenger's rights in the case of an oversold flight, in accordance with regulations of the *U.S. Department of Transportation.*

Volunteers and Boarding Priorities

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until airline personnel first ask for volunteers who will give up their reservation willingly, in exchange for a payment of the airline's choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily in accordance with the following boarding priority of (name of air carrier): (In this space the carrier inserts its boarding priority rules or a summary thereof, in a manner to be understandable to the average passenger.)

Compensation for Involuntary Denied Boarding

If you are denied boarding involuntarily, you are entitled to a payment of ''denied boarding compensation'' from the airline unless: (1) you have not fully complied with the airline's ticketing, check-in and reconfirmation requirements, or you are not acceptable for transportation under the airline's usual rules and practices; or (2) you are denied boarding because the flight is canceled; or (3) you are denied boarding because a smaller capacity aircraft was substituted for safety or operational reasons; or (4) you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or (5) the airline is able to place you on another flight or flights that are planned to reach your next stopover or final destination within one hour of the planned arrival time of your original flight.

Amount of Denied Boarding Compensation

Passengers who are eligible for denied boarding compensation must be offered a payment equal to their one-way fare to their destination (including connecting flights) or first stopover of four hours or longer, with a $400 maximum. However, if the airline cannot arrange ''alternate transportation'' (see below) for the passenger, the compensation is doubled ($800 maximum). The fare upon which the compensation is based shall include any surcharge and air transportation tax.

''Alternate transportation'' is air transportation (by any airline licensed by DOT) or other transportation used by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's next scheduled stopover of four hours or longer or, if none, the passenger's final destination, no later than 2 hours (for flights between U.S. points, including territories and possessions) or 4 hours (for international flights) after the passenger's originally scheduled arrival time.

Method of Payment

Except as provided below, the airline must give each passenger who qualified for involuntary denied boarding compensation a payment by cash or check for the amount specified above, on the day and at the place the involuntary denied boarding occurs. If the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment shall be sent to the passenger within 24 hours. The air carrier may offer free or discounted transportation in place of the cash payment. In that event, the carrier must disclose all material restrictions on the use of the free or discounted transportation before the passenger decides whether to accept the transportation in lieu of a cash or check payment. The passenger may insist on the cash/check payment or refuse all compensation and bring private legal action.

Passenger's Options

Acceptance of the compensation may relieve (name of air carrier) from any further liability to the passenger caused by its failure to honor the confirmed reservation. However, the passenger may decline the payment and seek to recover damages in a court of law or in some other manner.

* * * * *

§ 250.10 [Amended]

8. In the first sentence of § 250.10, the word ''carrier'' is replaced with the phrase ''reporting carrier as defined in 14 CFR 234.2 and any carrier that voluntarily submits data pursuant to section 234.7 of that part.''

9. Section 250.11(a) is revised to read as follows:

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

(a) Every carrier shall cause to be displayed continuously in a conspicuous public place at each desk, station and position in the United States which is in the charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers, a sign located so as to be clearly visible and clearly readable to the traveling public, which shall have printed thereon the following statement in boldface type at least one-fourth of an inch high:

Notice—Overbooking of Flights

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for compensation of the airline's choosing. If there are not enough volunteers, the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions, *including failure to comply with the carrier's check-in deadline (carrier shall insert either ''of ____ minutes prior to each flight segment'' or ''(which are available upon request from the air carrier)'' here),* persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

* * * * *

Issued this 15th day of November, 2007, at Washington, DC.

Michael W. Reynolds,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 07–5761 Filed 11–15–07; 4:15 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 385

[Docket No. RM07–18–000]

Elimination of FERC Form No. 423

November 2, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, the Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to eliminate the FERC Form No. 423, *Monthly Report of Cost and Quality of Fuels for Electric Plants*. The Commission's infrequent use of the information no longer justifies the burden and cost of collecting it. Conversely, the Energy Information Administration has expressed a need for this information and, upon cessation of the Commission's collection, proposes to collect the information, as part of its newly proposed EIA–923.

DATES: *Comment deadline:* Comments are due December 20, 2007.

ADDRESSES: You may submit comments identified by Docket No. RM07–18–000, by one of the following methods:

- *eFiling:* From the Commission's Web site: *http://www.ferc.gov*, follow the instructions for submitting comments electronically found by selecting eFiling under the Documents & Filing heading.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Please refer to the Comment Procedures section for additional information.

FOR FURTHER INFORMATION CONTACT: Lawrence Greenfield (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426,

Telephone: (202) 502–6415, E-mail: *lawrence.greenfield@ferc.gov.*

Patricia W. Morris (Technical Information), Division of Administration, Budget and Strategic Planning, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8730, E-mail: *patricia.morris@ferc.gov.*

James Krug (Technical Information), Division of Administration, Budget and Strategic Planning, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8419, e-mail: *james.krug@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. In this Notice of Proposed Rulemaking, the Commission is proposing to amend its regulations, 18 CFR 141.61, to eliminate its Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants (OMB No. 1902–0024). The Commission's infrequent use of the information no longer justifies the burden and cost of collecting it. While the Commission is proposing to eliminate the Form 423, the Energy Information Administration (EIA) has expressed a need for this information and, upon cessation of the Commission's collection, has proposed to collect the information, as part of its newly proposed EIA–923 survey.[1]

Background

2. Form 423 gathers information on the cost and quality of fuels delivered to steam electric generating plants of 50 MW or greater. This information has been used over the years for a variety of purposes, including: (1) To conduct fuel reviews under Federal Power Act (FPA) sections 205(a) and (e); [2] (2) to address fuel costs and fuel purchase practices affecting public utility rates under FPA sections 205 and 206; [3] and (3) to detect abnormally high fuel costs in public utility fuel purchases indicative of affiliate preference under FPA sections 205 and 206.[4]

3. Form 423 is submitted electronically on a monthly basis by approximately 190 utilities for their 569 steam electric generating plants.

Discussion

4. The issuance of Order No. 888 [5] and the public utility industry's increasing reliance on market-based rates have created a diminished need for the Form 423 information; greater use of market-based rates has resulted in less reliance on cost-based rates and less need to evaluate rates by reference to the utility's costs. In short, there are fewer public utilities with cost-based rates [6] and particularly with fuel adjustment clauses as part of their rates. This, in turn, has resulted in fewer rate cases and fewer complaints filed with the Commission. Moreover, should the Commission have a need for information concerning fuel costs and purchases, it can obtain such information on a case-by-case basis through special reports, investigations, or in formal proceedings.[7]

5. The Commission's infrequent use of the information collected through Form 423, in sum, no longer justifies the burden of collecting it. The Commission therefore proposes to cease to collect the Form 423 information ending with the December 2007 information, due February 15, 2008.

6. In contrast to the Commission's lack of need for the information, the EIA, in a collection statement to the Office of Management and Budget (OMB), states that EIA has multiple uses for it and request approval to collect it. Presently, EIA collects similar information from nonutility generators and, as explained in EIA's collection statement to OMB, adding to it information from Commission-jurisdictional public utilities would, for the first time, capture all such data on one form for the entire industry. EIA further proposes to merge the combined data collection with information from three other existing EIA collections: EIA–906, EIA–920 and EIA–767, in an effort to improve data quality, consistency and reporting efficiency. The result, EIA states, will be a new survey, the EIA–923, Power Plant Operations Report.

7. The Commission proposes to collect Form 423 information ending with the December 2007 report, due February 15, 2008, to coordinate with the initiation of EIA's collection of that information. However, if EIA is not prepared to collect the information at that time, to prevent a gap in data continuity, the Commission will continue to collect the information, until such time as EIA is prepared to begin collection, but not beyond the December 2008 report, due in February 2009.

8. The annual estimated $385,128 cost to filers to provide the Form 423 information, added to the $193,869 cost to the Commission to collect it, means eliminating the collection would save $578,997. The added burden on EIA to collect the FERC Form 423 data, EIA states in its OMB submission, is offset by the added efficiencies of reorganizing their data collections.

Solicitation of Comments

9. The Commission seeks comments both on its proposal to eliminate the Form 423, and on the date the Commission proposes to eliminate the Form 423.

Information Collection Statement

10. OMB regulations require OMB to approve certain information collection requirements imposed by an agency.[8] Here, the Commission is proposing to cease collecting certain information. Nevertheless, OMB has been notified of the Commission's actions in this case. The Commission will submit a copy of the Notice of Proposed Rulemaking (NOPR) to OMB for information purposes only.

11. Interested persons may obtain information on the elimination of these reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attn: Michael Miller, Information Services Division (202) 502–8415, fax: (202) 273–0873]. Comments also can be sent to the Office of Information and Regulatory Affairs of OMB [Attn: Desk Officer for the Federal Energy Regulatory Commission; phone, (202) 395–4650, fax: (202) 395–7285, e-mail: *oira_submission@omb.eop.gov.* Comments regarding EIA's collection of information now collected on Form 423 should be addressed to OMB at the above address.

[1] Energy Information Administration Electric Power Survey, OMB Control No. 1905–0129, Supporting Statement A, (submitted to the Office of Management and Budget for review on October 4, 2007), available at: *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200709-1905-003.*

[2] 16 U.S.C. 824d(a), (e).

[3] 16 U.S.C. 824d, 824e.

[4] Id.

[5] *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), aff'd in *relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC*, 535 U.S. 1 (2002).

[6] A review of data from the Electric Quarterly Reports for calendar year 2006 indicates that market-based power sales constituted ninety percent of jurisdictional power sales (reported as energy sales and booked out transactions). Five percent were at cost-based rates, and the other five percent could not be readily categorized given the information reported.

[7] *See, e.g.*, 16 U.S.C. 825e, 825f.

[8] 5 CFR 1320.11.

Environmental Analysis

12. Commission regulations require that an Environmental Assessment or an Environmental Impact Statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[9] The Commission has categorically excluded certain actions from this requirement as not having a significant adverse effect on the human environment. No environmental consideration is necessary for the promulgation of a rule concerning information gathering, analysis or dissemination.[10] Because this NOPR concerns the elimination of an information collection, no environmental consideration is necessary.

Regulatory Flexibility Act Certification

13. The Regulatory Flexibility Act of 1980 (RFA) [11] generally requires either a description and analysis of a rule that will have a significant economic impact on a substantial number of small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. Most utilities to which this proposed rule applies would not fall within the RFA's definition of small entity.[12] Consequently, the Commission certifies that this NOPR, if adopted, will not have a significant economic impact on a substantial number of small entities. Moreover, elimination of the Form 423 will reduce the burden on all entities, including small entities.

Comment Procedures

14. The Commission invites interested persons to submit comments on the changes proposed in this NOPR to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due December 20, 2007. Comments must refer to Docket No. RM07–18–000, and must include, in the comments, the commenter's name, the organization represented, if applicable, and the address. Comments may be filed either in electronic or paper format.

15. Comments may be filed electronically via the eFiling link found under the Documents & Filings heading on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats, but requests commenters to submit comments in a text-searchable format rather than a scanned image format. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

16. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

Document Availability

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

18. From the Commission's Home Page on the Internet, the full text of this document is available in the Commission's document management system, eLibrary, in PDF and Microsoft Word format for viewing, printing, and downloading. To access this document in eLibrary, type the docket number (excluding the last three digits of the docket number), in the Docket Number field.

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

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements

By direction of the Commission.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 141 and 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 141.61 [Removed and reserved]

2. Section 141.61 is removed and reserved.

PART 385—RULES OF PRACTICE AND PROCEDURE

3. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C.791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

§ 385.2011 [Amended]

4. Section 385.2011, paragraph (a)(8) is removed and reserved.

[FR Doc. E7–22550 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–296P]

RIN 1117–AB10

Removal of Thresholds for the List I Chemicals Pseudoephedrine and Phenylpropanolamine

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is proposing to remove the thresholds for importation, exportation, and domestic distributions of the List I chemicals pseudoephedrine and phenylpropanolamine. This rulemaking is being conducted as part of

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[9] *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (*codified at* 18 CFR Part 380).

[10] 18 CFR 380.4(a)(5).

[11] 5 U.S.C. 601–12.

[12] 5 U.S.C. 601(3), *citing* to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed four million MWh. 13 CFR 121.201.

DEA's implementation of the Combat Methamphetamine Epidemic Act of 2005 and is needed to implement the Act's requirements for import and production quotas and to address the potential diversion of these chemicals. DEA is also clarifying that all transactions of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, except retail transactions, are considered to be regulated transactions.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before January 22, 2008.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–296'' on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7297.

SUPPLEMENTARY INFORMATION:

DEA's Legal Authority

DEA implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1399. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical, scientific, research, and industrial purposes and deter the diversion of controlled substances to illegal purposes. The CSA mandates that DEA establish a closed system of control for manufacturing, distributing, and dispensing controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt) and comply with the applicable requirements for the activity. The CSA, as amended, also requires DEA to regulate the manufacture, distribution, retail sale, import, and export of chemicals that may be used to manufacture controlled substances illegally. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances.

On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA), which is Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177). Among other actions, CMEA imposed new requirements regarding the retail sale of scheduled listed chemical products (products containing ephedrine, pseudoephedrine, or phenylpropanolamine, that may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act as nonprescription products) (21 U.S.C. 802(45)(A)). In a separate rulemaking, ''Retail Sales of Scheduled Listed Chemical Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products'' [Docket No. DEA–291, RIN 1117–AB05] (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006), DEA promulgated regulations implementing these provisions. The CMEA also subjects material containing ephedrine, pseudoephedrine, and phenylpropanolamine to manufacturing and import restrictions. Specifically, CMEA amended section 1002 of the Controlled Substances Act (21 U.S.C. 952(a)(1)) by adding the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine to those narcotic raw materials whose importation into the United States is prohibited except for such amounts as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes. In a separate rulemaking, ''Import and Production Quotas for Certain List I Chemicals'' [Docket No. DEA–293, RIN 1117–AB08] (72 FR 37439, July 10, 2007), DEA promulgated regulations to implement these provisions. Further, the CMEA requires that importers of all listed chemicals provide DEA with information regarding the transferee, (i.e., the downstream customer) of the chemical, as well as information regarding the quantity of the chemical to be transferred. Importers are further required to provide DEA with a return declaration regarding each import after the transaction is completed (CMEA § 716, 21 U.S.C. 971(d) and (g), as amended). In a separate rulemaking, ''Implementation of the Combat Methamphetamine Epidemic Act of 2005; Notice of Transfers Following Importation or Exportation'' [Docket No. DEA–292, RIN 1117–AB06] (72 FR 17401, April 9, 2007; Temporary Stay of Certain Provisions 72 FR 28601, May 22, 2007), DEA promulgated regulations implementing these provisions. Further, the CMEA requires that the notice of importation (DEA Form 486) for ephedrine, pseudoephedrine, and phenylpropanolamine ''shall include all information known to the importer on the chain of distribution of such chemical from the manufacturer to the importer.'' (CMEA § 721, 21 U.S.C. 971(h) as amended). In a separate rulemaking, ''Information of Foreign Chain of Distribution for Certain List I Chemicals'' [Docket No. DEA–295, RIN 1117–AB07], DEA is promulgating regulations to implement this provision.

Ephedrine, Pseudoephedrine, and Phenylpropanolamine

The List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine all serve as precursor chemicals for the illicit manufacture of controlled substances. Ephedrine and pseudoephedrine are the primary precursors used in the synthesis of the controlled substances methamphetamine, a schedule II controlled substance, and methcathinone, a schedule I controlled substance. Phenylpropanolamine is the primary precursor used in the illicit synthesis of amphetamine, a schedule II controlled substance.

Licit Use

Ephedrine, pseudoephedrine, and phenylpropanolamine all have therapeutic uses in both over-the-counter and prescription drug products. Ephedrine is lawfully marketed under the Federal Food, Drug, and Cosmetic Act as an ingredient in nonprescription (''over-the-counter'' (OTC)) drugs as a bronchodilator for the treatment of asthma. Ephedrine is also available OTC in combination with the active ingredient guaifenesin.

As a prescription drug, ephedrine is used in parenteral (injectable) form in hospitals as part of an anesthesiology kit. Ephedrine has the beneficial effect of increasing blood pressure very rapidly in the event of hypotensive crisis (i.e., sudden loss of blood pressure sometimes experienced during surgery). Parenteral ephedrine is also sometimes used to relieve acute bronchospasm. Oral dosage forms of ephedrine are also available as prescription drugs for the treatment of asthma. These prescription drug products primarily consist of ephedrine in combination with other active ingredients such as potassium iodide (an expectorant) and/or theophylline (a bronchospamolytic).

Pseudoephedrine is lawfully marketed under the Federal Food, Drug, and Cosmetic Act provisions for OTC use as a decongestant. Phenylpropanolamine has historically been marketed in the United States for OTC use as a decongestant and diet aid and there have been many legend (prescription) drug products that contain pseudoephedrine or phenylpropanolamine. In the vast majority of these preparations, pseudoephedrine or phenylpropanolamine were in combination with other active ingredients, such as antihistamines, expectorants, and/or antitussives.

In November 2000, the U.S. Food and Drug Administration (FDA) issued a public health advisory concerning phenylpropanolamine and requested that all drug companies discontinue marketing products containing phenylpropanolamine due to risk of hemorrhagic stroke. In response, many companies have voluntarily reformulated their products to exclude phenylpropanolamine. Subsequently, on December 22, 2005, the FDA published a Notice of Proposed Rulemaking (70 FR 75988) proposing to categorize all over-the-counter nasal decongestants and weight control drug products containing phenylpropanolamine preparations as Category II, nonmonograph, i.e., not generally recognized as being safe for human consumption. Most products containing phenylpropanolamine intended for humans have been withdrawn from the market, but phenylpropanolamine is still sold by prescription for veterinary uses.

While ephedrine and pseudoephedrine are pharmacologically different (and have quite different therapeutic uses), they are directly substitutable in the production of methamphetamine. This is because of the similarity of the chemical structures of the two drugs.

Discussion of This Rule

In this rule, DEA is addressing two issues related to CMEA implementation. First, DEA is proposing to eliminate the thresholds for distribution, importation, and exportation of pseudoephedrine and phenylpropanolamine; the threshold for distribution, importation, and exportation of ephedrine was eliminated previously. Limits on retail transactions are set in the CMEA and were addressed in DEA's Interim Rule regarding the retail provisions of the CMEA (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006). Second, DEA is proposing to clarify that all distribution, importation, and exportation transactions involving drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine are regulated transactions.

Thresholds

Under the existing regulations (21 CFR 1310.04), the threshold for non-retail distribution, import, and export of pseudoephedrine is 1 kilogram and for phenylpropanolamine, 2.5 kilograms. A single transaction or multiple transactions in a month with a single customer that equal or exceed the threshold are considered regulated transactions and trigger the reporting and recordkeeping requirements of 21 CFR part 1310. DEA has not established a threshold for ephedrine; all non-retail distribution, import, and export transactions involving ephedrine are already subject to recordkeeping and reporting requirements.

CMEA mandates that DEA establish the total annual need for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured or imported each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. These requirements apply equally to products containing these three List I chemicals as they do to the List I chemicals themselves. To limit the supply of the chemicals to the amount needed to meet the national need, CMEA requires DEA to establish import and production quotas for all three chemicals. DEA published its proposed 2007 assessment of annual needs for ephedrine, pseudoephedrine, and phenylpropanolamine on October 19, 2006 (71 FR 61801). DEA published regulations implementing procedures for import and production quotas on July 10, 2007 (72 FR 37439).

To obtain the information needed to assess the national need and set quotas to limit imports and production to meet that need, DEA identified two inadequacies regarding its existing regulations. First, persons who manufacture or import prescription drugs containing the chemicals are not registered. In another rulemaking, ''Registration Requirements for List I Chemicals'' [Docket No. DEA–294, RIN 1117–AB09], DEA is revising its registration requirements to cover manufacturers and importers of prescription drugs containing these chemicals and will issue quotas to them although the distribution and export of prescription drugs containing the chemicals will continue to be exempt from DEA regulatory control.

The second inadequacy involves the thresholds that apply to pseudoephedrine and phenylpropanolamine. To determine the annual need and set quotas, DEA must obtain information on all imports and production involving the chemicals, not just those that exceed the existing thresholds. The existing thresholds, although relatively low, would allow a considerable market in the chemicals to continue unregulated. For example, under the current 1 kilogram (2.2 pound) threshold for pseudoephedrine, a person could import or distribute more than 2 pounds a month, or approximately 25 pounds a year, of pseudoephedrine without exceeding the threshold and triggering DEA's controls. Assuming a low 50 percent conversion rate of pseudoephedrine to methamphetamine, a person could annually manufacture approximately 12.5 pounds of methamphetamine with that total sum of sub-threshold quantities. DEA analysis for 2006 estimates that the national range in the street price for one pound of methamphetamine (powder) is between $2,500 and $48,000. To further implement the Combat Methamphetamine Epidemic Act of 2005, this rule seeks to curb the availability of pseudoephedrine at the wholesale level for illicit purposes.

Additionally, under the current 2.5 kilogram (5.5 pound) threshold for phenylpropanolamine, a person could import or distribute more than 5 pounds a month, or approximately 66 pounds a year of phenylpropanolamine without exceeding the threshold and triggering DEA's controls. Assuming a low 50 percent conversion rate of phenylpropanolamine to amphetamine, a person could annually manufacture approximately 33 pounds of amphetamine with that total sum of sub-threshold quantities. The resulting amphetamine would have street value comparable to methamphetamine. To further implement the Combat Methamphetamine Epidemic Act of 2005, this rule seeks to curb the availability of phenylpropanolamine at the wholesale level for illicit purposes.

Currently, DEA is notified of all imports and exports of these chemicals which exceed the established thresholds or for which no threshold is established. DEA does not, however, receive import and export notifications for imports and exports of listed chemicals less than established thresholds. If DEA does not eliminate the threshold for imports and exports of pseudoephedrine and phenylpropanolamine, DEA will not have complete and accurate information regarding the quantities of these chemicals imported into, and exported from, the United States. Further, manufacturers and distributors are not required to maintain records of distributions of listed chemicals at or below established thresholds. Without the maintenance of these records, DEA will not have complete and accurate information regarding the quantities of these chemicals being distributed domestically.

To establish the controls that Congress mandated and limit imports and production to that needed for legitimate uses, DEA is proposing to eliminate the thresholds for all transactions involving the List I chemicals pseudoephedrine and phenylpropanolamine. As discussed previously, no threshold currently exists for transactions involving the List I chemical ephedrine; thus, all transactions are regulated. Any registrant manufacturing, distributing, importing, or exporting pseudoephedrine or phenylpropanolamine, in any quantity, either as bulk chemicals or in over-the-counter drug products, would be subject to the reporting and recordkeeping requirements. Any manufacturer or importer of prescription drug products containing one of the chemicals would also be subject to reporting and recordkeeping requirements. Importation of the chemicals is allowed only if it is within an import quota that the importer has applied for and been granted by DEA. The one exception to the import limits provided in CMEA is that an individual may import not more than 7.5 grams in any 30-day period of a scheduled listed chemical product (i.e., a product containing ephedrine, pseudoephedrine, or phenylpropanolamine which may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act as a nonprescription drug) by means of the U.S. Postal Service or a private or commercial carrier (21 U.S.C. 844(a)).

The distribution and export of prescription drug products containing the chemicals are not covered because DEA will be able to obtain the information it needs for the assessment of annual national needs from importers and manufacturers of these products. DEA has not determined that prescription drug products are being diverted.

Regulated Transactions

The definition of ''regulated transaction'' as amended by CMEA (21 U.S.C. 802(39)(A)(iv)) excludes:

(iv) Any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), subject to clause (v), unless—

(I) The Attorney General has determined under section 204 of the Act (21 U.S.C. 814) that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(II) The quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General.

Section 814 (b) states that:

In removing a drug or group of drugs from exemption * * * the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

(1) The scope, duration, and significance of the diversion;

(2) Whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

(3) Whether the listed chemical can be readily recovered from the drug or group of drugs.

DEA in this rule is clarifying that nonprescription (''over-the-counter'') drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine do not qualify for the exemption from the definition of ''regulated transaction'' based on the three factors listed in 21 U.S.C. 814(b).

Evaluation of Statutory Factors for Removal of Exemption From the Definition of ''Regulated Transaction''

Factor 1: Scope, Duration, and Significance of Diversion

Throughout the late 1970s, methamphetamine was illicitly produced primarily through the use of the precursor phenylacetone (phenyl-2-propanone (P2P)) by outlaw motorcycle gangs in the United States. In response to the use of P2P, DEA controlled P2P as a schedule II controlled substance in 1980, under the immediate precursor provisions of the CSA, specifically 21 U.S.C. 811(e). Clandestine laboratory operators responded by developing a variety of synthetic methods for producing P2P and also migrated to the use of ephedrine as precursor material.

Trafficking groups widely used a procedure for converting ephedrine to methamphetamine that employed hydriodic acid and red phosphorus (HI/Red P). Use of the HI/Red P technique (also known as a ''hydriodic acid reduction'' or ''ephedrine reduction'') exploded across the western and southwestern United States through the 1980s, and by 1990 accounted for 90 percent of all clandestine laboratory seizures reported to DEA.

With the rapid increase in the use of the HI/Red P technique through the 1980s came increased law enforcement pressure. Purchases of bulk ephedrine were loosely monitored, and legitimate domestic suppliers of ephedrine began restricting or denying sales of bulk ephedrine to questionable buyers. In response, clandestine manufacturers turned to foreign suppliers, and thefts and diversion of bulk shipments of ephedrine also began to increase across the United States.

In 1989, DEA control of chemicals was initiated with passage of the Chemical Diversion and Trafficking Act of 1988 (CDTA) (Subtitle A of Title VI of Pub. L. 100–690). This law placed recordkeeping and reporting requirements on a wide variety of precursors and essential chemicals used in every aspect of clandestine drug manufacture, including bulk powder ephedrine, pseudoephedrine, and phenylpropanolamine. In response to the regulations, traffickers moved to the illicit use of single-entity ephedrine OTC tablets as an unregulated source of precursor material for the production of methamphetamine.

The extraction of the precursor chemical ephedrine from OTC tablets was an easy task. The tablets were simply ground using a kitchen blender and ephedrine extracted with an appropriate solvent. Upon filtration and evaporation of the solution, the traffickers were able to isolate the ephedrine bulk powder. Traffickers began widely exploiting what became known as the ''tablet loophole.''

Soon after, DEA began encountering ''ephedrine extraction laboratories'' whose primary purpose was to recover ephedrine from OTC tablets and capsules, either for resale on the black market or for use in associated clandestine methamphetamine laboratories. Many laboratories combined ephedrine extraction and methamphetamine production.

Over the next three years, a number of well-publicized seizures of rogue businesses (and prosecutions of their owners) began to impact the tablet manufacturing industry, and the loophole allowing the sale of single-entity ephedrine products was closed in late 1993 with the passage of the Domestic Chemical Diversion Control Act of 1993 (DCDCA) (Pub. L. 103–200).

In efforts to circumvent the provisions of the DCDCA, OTC tablet manufacturers began marketing new ephedrine combination products (i.e., ephedrine/guaifenesin tablets), which were exempt from DCDCA controls. The most dramatic shift forced by the CDTA and DCDCA, however, was a rapid transition from ephedrine to pseudoephedrine as the primary precursor for illicit methamphetamine manufacture. Although bulk pseudoephedrine was formally controlled under the CDTA in 1989, OTC products containing pseudoephedrine remained exempt under both the CDTA and DCDCA. In contrast to ephedrine, pseudoephedrine was present in a wide variety of pharmaceutical products, including hundreds of OTC cold and allergy preparations, and formal monitoring and control was considered (at that time) to be problematic. OTC pseudoephedrine-containing products, therefore, represented an easy precursor source for clandestine laboratory operators. By the mid-1990s, illicit methamphetamine laboratories using pseudoephedrine surpassed those still using ephedrine.

In 1996, the existing controls on precursor and essential chemicals imposed by the CDTA and DCDCA were further tightened with the passage of the Comprehensive Methamphetamine Control Act of 1996 (MCA) (Pub. L. 104–237). What followed was a series of legislative actions on both the Federal and State levels to tighten controls on pharmaceutical products that serve as precursor material for clandestine methamphetamine laboratories. At the federal level, this effort included passage of the Methamphetamine Anti-Proliferation Act of 2000 (MAPA) (Title XXXVI of Pub. L. 106–310). Today, however, ephedrine and pseudoephedrine OTC products continue to serve as the primary precursor source for the illicit production of methamphetamine, which has spread across the entire United States in epidemic proportions.

Current Seizures

Methamphetamine remains the primary drug produced in illicit laboratories within the United States. Data from the El Paso Intelligence Center's (EPIC) Clandestine Laboratory Database indicates that more than 10,010 methamphetamine laboratories were seized in calendar year 2004 and 5,883 laboratories in calendar year 2005 (as reported to EPIC through 05/08/07). According to EPIC, from January 2000 through December 2006, there were 7,087 laboratories reportedly using ephedrine and 46,290 reportedly using pseudoephedrine as precursor material for methamphetamine production. Additionally EPIC reports the seizure of 52 amphetamine laboratories (using phenylpropanolamine) during the same period. The vast majority of these laboratories used pharmaceutical products containing pseudoephedrine, ephedrine, and phenylpropanolamine as the source of precursor material.

Illicit Uses

Factor 2: whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance.

Factor 3: whether the listed chemical can be readily recovered from the drug or group of drugs.

The production of methamphetamine from ephedrine or pseudoephedrine can be accomplished via a series of reactions using widely available ''recipes'' and can be accomplished with little or no chemistry expertise. A variety of different methods exist to convert the precursor material to methamphetamine. If very small batches are made, there is not even a requirement to heat the reactants. For example, quantities of ephedrine or pseudoephedrine, iodine, and red phosphorous can be reacted with the addition of water and small quantities of methamphetamine can be produced. For larger batches the reactants are combined and heated for several hours. A variety of different reagents can be used to make the conversion to methamphetamine if the precursors ephedrine and pseudoephedrine are obtained. These reactants can also be used to convert phenylpropanolamine to amphetamine. Manufacturing procedures are readily available on the Internet and even unskilled persons can obtain a 50–70 percent yield of methamphetamine or amphetamine.

Note: Pseudoephedrine and ephedrine can also serve as precursor material for the manufacture of the schedule I controlled substance methcathinone. From January 2000 through December 2006, there were 165 methcathinone laboratory seizures reported to EPIC.

There is a common misconception in industry and among some in the public that OTC drug products, particularly pseudoephedrine or ephedrine products in combination with other medically active ingredients (combo products), are somehow less likely to be diverted or are less desirable among clandestine laboratory cooks for the manufacture of methamphetamine. This is not the case.

Most of the clandestine laboratories found in the United States are using tablets, either single-entity or combination. In many of the methamphetamine exhibits analyzed by DEA analytical laboratories, the presence of antihistamines is detected, indicating that combination products were used in the reactions.

While the vast majority of clandestine laboratories seized have used tableted pseudoephedrine and ephedrine products, gel caps and liquid dosage form products can easily serve as the source of precursor material for the production of methamphetamine. DEA scientific studies show that liquid, gel cap, and combination products are easily used as the source of precursor material and the pseudoephedrine/ephedrine from these products can be easily extracted with appropriate reagents/solvents. These reagents/solvents are all readily available at hardware and auto parts stores in the United States.

The controlled substances produced from these chemicals, methamphetamine and amphetamine, have a high abuse potential. The public health consequences of the manufacture, trafficking, and abuse of these two substances are well known and documented.

Findings

Therefore, based on the above discussion, the Administrator of the Drug Enforcement Administration, pursuant to the authority delegated by the Attorney General, finds, pursuant to the criteria specified in 21 U.S.C. 814(b), that drug products containing the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine are being diverted for the illicit production of controlled substances, namely methamphetamine and amphetamine. As DEA has discussed, these products have a demonstrated history over the past 20 years of diversion for illicit purposes. These List I chemicals are diverted regardless of formulation—liquid, nonliquid, gel capsule—and regardless of dosage strength. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority delegated by the Attorney General, removes drug products containing the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine from exemption from the definition of ''regulated transaction'' under 21 U.S.C. 802(39)(a)(iv). As such, unless otherwise exempted, such materials would be subject to the chemical regulatory control provisions of the CSA. DEA is proposing to add a new section 1310.14 removing these drugs from the exemption.

The CSA has specifically exempted retail transactions involving scheduled listed chemical products from the definition of regulated transaction (21 U.S.C. 802(39)(a)(v)) and established a separate set of regulations that control those retail transactions (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006).

Technical Correction

While drafting this rulemaking, DEA became aware of an inaccurate citation in 21 CFR 1310.10, the section paralleling the criteria to be considered in evaluating the statutory factors for removal of exemption from the definition of ''regulated transaction'' at 21 U.S.C. 814 and discussed above. Specifically, the definition of ''regulated transaction'' cited in 21 CFR 1310.10 is inaccurate. Therefore, to alleviate any confusion, DEA is proposing to correct this citation.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). Without this rule, DEA will not be able to effectively implement the quota and import provisions of CMEA.

As DEA has demonstrated throughout this document, traffickers and others in search of the chemicals necessary for clandestine manufacture of methamphetamine and amphetamine, are actively looking to exploit any loophole in chemical controls.

As discussed above, the current thresholds create a loophole that could be exploited by traffickers who can turn below-existing-threshold quantities of List I chemicals into valuable, sought-after quantities of methamphetamine and/or amphetamine. The diversion of below-threshold quantities of these precursor chemicals could result in the illicit production of significant quantities of methamphetamine and/or amphetamine. CMEA was enacted to prevent this illicit production. Congress specifically imposed a 3.6 gram daily sales limit, and a 9 gram 30-day purchase limit for all transactions involving scheduled listed chemical products, as well as a 7.5 gram 30-day sales limit for sales of scheduled listed chemical products made by mobile retail vendors and mail order distributors. Congress, through the CMEA, also limited the quantity of scheduled listed chemical products an individual may import into the United States to not more than 7.5 grams during a 30-day period by means of shipping through any private or commercial carrier or the Postal Service. Congress further limited importation of ephedrine, pseudoephedrine, and phenylpropanolamine, prohibiting all imports except ''such quantities * * * as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes,'' (21 U.S.C. 952(a)(1)). It is inconsistent with Congressional intent to limit retail sales and purchases, and importation, of scheduled listed chemical products while allowing producers and traffickers to import or purchase from distributors quantities 100 times greater than retail sales limits without subjecting those transactions to any controls.

As noted previously, below-threshold transactions are not documented to DEA; thus, DEA has no knowledge of the movement, including importation and exportation, of below-threshold quantities of pseudoephedrine and phenylpropanolamine. Specifically, non-retail distribution, import, and export transactions involving less than 1 kilogram of pseudoephedrine (approximately 2.2 pounds), or less than 2.5 kilograms of phenylpropanolamine (approximately 5.5 pounds), per month per customer would be exempt from DEA recordkeeping and reporting requirements. DEA cannot monitor, and does not receive reports on, these import, export, and distribution transactions. As discussed previously, the diversion of below-threshold quantities of these precursor chemicals could result in the illicit production of significant quantities of methamphetamine and/or amphetamine.

Not removing the thresholds would also create a loophole in the system of import and production quotas established by the CMEA and implemented in an Interim Final Rule with Request for Comment (72 FR 37439, July 10, 2007). Without the reporting of all such transactions involving ephedrine, pseudoephedrine, and phenylpropanolamine to DEA, it would be more difficult for DEA to establish an assessment of annual national needs and to administer individual quotas for these List I chemicals. DEA would have incomplete information regarding these chemicals on which to base its assessments and quotas.

Finally, this rule seeks to clarify that ephedrine, pseudoephedrine, and phenylpropanolamine have been, and continue to be, diverted for the illicit manufacture of controlled substances. By making this statement, this document hereby would formally include ephedrine, pseudoephedrine, and phenylpropanolamine, and drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, within the scope of the definition of ''regulated transaction'' found at 21 U.S.C. 802(39). This rule is necessary to avoid possible confusion in interpreting and applying the CMEA definition of ''regulated transaction.''

DEA notes that the effect of eliminating the thresholds will impose a minimal burden on regulated entities. Although it is likely that many of the registrants who handle the two chemicals are small businesses under the Small Business Administration definition of small entities, the changes impose virtually no burden on these entities for three reasons. First, most, if not all, legitimate transactions at the import, export, manufacturing, and distribution level are in excess of the previous thresholds. DEA does not expect any new registrations to result from the change. Second, although it is possible that some registrants may have some transactions that will be newly regulated, the recordkeeping for these can be met with standard business records. The only information required in records for regulated transactions is the name and address of the seller and purchaser (plus their DEA registration numbers, if applicable); the date of the transaction; the name, quantity, and form of packaging of the listed chemical; the method of transfer; and the method of identification used by the customer and any unique identification number associated with the identification. This information is normally included on purchase orders or invoices and the shipping papers and is needed to complete and track the transaction. As long as the purchaser can extract the records for examination, if necessary, no additional effort is needed. Because almost all business records for manufacturers, importers, and distributors are now generated and transmitted electronically, DEA does not expect that any registrant will need additional recordkeeping.

Third, if any person is importing or exporting in very small quantities, there may be some additional import/export declarations required, but these forms require less than half an hour to complete and file. The only other requirement would be to report suspicious small transactions. These reports also require less than a half hour to complete and file.

As noted above, DEA does not believe that legitimate importers or exporters are handling such small quantities. The purpose of this rule is to close a loophole that could be exploited by those seeking the chemicals for illicit purposes and to ensure that DEA can accurately assess the legitimate need. DEA, therefore, certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Deputy Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 section 1(b). It has been determined that this is ''a significant regulatory action.'' Therefore, this action has been reviewed by the Office of Management and Budget. This rule supports implementation of provisions of the CMEA. The CMEA is expansive in its breadth, essentially reclassifying ephedrine, pseudoephedrine, and phenylpropanolamine as scheduled listed chemicals, imposes new retail restrictions on these products, and mandates new domestic and import quotas. Without this rule, traffickers could exploit below-threshold transactions, which are not reported to DEA and for which records are not required to be maintained, to divert valuable quantities of pseudoephedrine and phenylpropanolamine for the clandestine manufacture of methamphetamine and/or amphetamine. Further, without this rule, DEA would not have complete information on which to base its assessment of the annual national needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine as DEA does not receive information regarding below-threshold transactions. This lack of information would create a loophole in the quota system, and would prevent DEA from fulfilling its legislative mandate that imports of pseudoephedrine and phenylpropanolamine be prohibited except for medical, scientific, or other legitimate purposes. Without this rule, DEA will not be able to effectively and fully implement the quota and import provisions of the CMEA.

As discussed above, DEA does not anticipate that this change will impose more than the minimal costs that would be associated with reporting small transactions that the registrant thought suspicious and possibly filing forms for import and export notifications. The benefits of the rule are those associated with controlling access to chemicals used to manufacture methamphetamine, and other controlled substances, illicitly. As has been discussed extensively throughout this document, traffickers and others are actively looking to exploit any loophole in chemical controls to continue their operations. As noted previously, the current thresholds could permit a person to divert approximately 25 pounds of pseudoephedrine and 66 pounds of phenylpropanolamine annually, without exceeding existing thresholds. This rule closes a loophole that could result in the undocumented diversion of these chemicals for illicit production of significant quantities of methamphetamine and/or amphetamine. As noted previously in this rule, below-threshold transactions are not documented to DEA; the diversion of below-threshold quantities of these precursor chemicals could result in the illicit production of significant quantities of methamphetamine and/or amphetamine.

Executive Order 12988

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

Executive Order 13132

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

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

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

Paperwork Reduction Act

This rule would require that records be maintained regarding distributions of the List I chemicals pseudoephedrine and phenylpropanolamine. These records are maintained as a normal course of business.

The rule also proposes to reduce the thresholds for the List I chemicals pseudoephedrine and phenylpropanolamine from 1 kilogram and 2.5 kilograms, respectively, to zero, thereby requiring that DEA receive advance notification of all importations and exportations of these List I chemicals. DEA notes that it already receives some Import/Export Declarations if the cumulative amount of the transactions exceeds the thresholds on a monthly basis. Therefore, DEA does not believe that this change will significantly increase the burden associated with this information collection. Specifically, DEA estimates that 53 additional export notifications and 53 additional export return declarations will be received annually. Further, DEA estimates that 50 additional import declarations and 55 additional import return declarations will be received annually. DEA assumes 10 percent of all imports will not be transferred in the first 30 days and will necessitate submission of a subsequent return declaration. The receipt of these additional forms increases the hour burden by 34 hours annually. Therefore, DEA is revising its existing information collection [OMB approval number 1117–0023 ''Import/Export Declaration for List I and List II Chemicals'', DEA Form 486] to reflect the increased burden associated with receipt of these import/export declarations.

The Department of Justice, Drug Enforcement Administration, has submitted the following information collection request to the Office of Management and Budget for review and clearance in accordance with review procedures of the Paperwork Reduction Act of 1995. The proposed information collections are published to obtain comments from the public and affected agencies. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the collection of information are encouraged. Your comments on the information collection-related aspects of this rule should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0023

(1) Type of Information Collection: Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Import/Export Declaration for List I and List II Chemicals.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number: DEA Form 486.

Component: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief *Abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Persons importing, exporting, and conducting international transactions with List I and List II chemicals must notify DEA of those transactions in advance of their occurrence, including information regarding the person(s) to whom the chemical will be transferred and the quantity to be transferred. Persons must also provide return declarations, confirming the date of the importation, exportation, or international transaction and transfer, and the amounts of the chemical transferred. This information is used to prevent shipments not intended for legitimate purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: A respondent may submit multiple responses. The below table presents information regarding the number of respondents, responses, and associated burden hours.

	Number of respondents	Number of responses	Average time per response	Total (hours)
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Form 486 (export)	239	8,050	0.2 hour (12 minutes)	1,610
Form 486 (Export Return Declaration)	239	8,050	0.08 hour (5 minutes)	670.9
Form 486 (import)	230	2,450	0.25 hour (15 minutes)	612.5
Form 486 (import return declaration) *	230	2,695	0.08 hour (5 minutes)	224.6
Form 486 (international transaction)	9	111	0.2 hour (12 minutes)	22.2
Form 486 (international transaction return declaration)	9	111	0.08 hour (5 minutes)	9.25
Quarterly reports for imports of acetone, 2-butanone, and toluene.	110	440	0.5 hour (30 minutes)	220
Total	239			3,369.45

* DEA assumes 10 percent of all imports will not be transferred in the first 30 days and will necessitate submission of a subsequent return declaration.

(6) An estimate of the total public burden (in hours) associated with the collection: 3,370 annual burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

For the reasons set forth above, 21 CFR part 1310 is proposed to be amended as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES [AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

2. Section 1310.04 is amended by revising paragraphs (f)(1)(i) table and (ii), (g)(1)(i) through (vii), and adding paragraphs (g)(1)(viii) and (ix) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(f) * * *

(1) * * *

(i) * * *

Code	Chemical	Threshold by base weight
8522	N-Acetylanthranilic acid, its esters, and its salts	40 kilograms.
8530	Anthranilic acid, its esters, and its salts	30 kilograms.
8256	Benzaldehyde	4 kilograms.
8735	Benzyl cyanide	1 kilogram.
8675	Ergonovine and its salts	10 grams.
8676	Ergotamine and its salts	20 grams.
8678	Ethylamine and its salts	1 kilogram.
6695	Hydriodic acid	1.7 kilograms (or 1 liter by volume).
8704	Isosafrole	4 kilograms.
8520	Methylamine and its salts	1 kilogram.
8502	3, 4-Methylenedioxyphenyl-2-propanone	4 kilograms.
8115	N-Methylephedrine, its salts, optical isomers, and salts of optical isomers	1 kilogram.
8119	N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers	1 kilogram.
6724	Nitroethane	2.5 kilograms.
8317	Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers	2.5 kilograms.
8791	Phenylacetic acid, its esters, and its salts	1 kilogram.
2704	Piperidine and its salts	500 grams.
8750	Piperonal (also called heliotropine)	4 kilograms.
8328	Propionic anhydride	1 gram.
8323	Safrole	4 kilograms.

(ii) For List I chemicals that are contained in scheduled listed chemical products as defined in § 1300.02(b)(34)(i), the thresholds established in paragraph (g) of this section apply only to non-retail distribution, import, and export. Sales of these products at retail are subject to the requirements of Part 1314 of this chapter.

* * * * *

(g) * * *

(1) * * *

(i) Ephedrine, its salts, optical isomers, and salts of optical isomers

(ii) Gamma-Butyrolactone (Other names include: GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; gamma-hydroxybutyric acid lactone)

(iii) Hypophosphorous acid and its salts (including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite)

(iv) Iodine

(v) N-phenethyl-4-piperidone (NPP)

(vi) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers

(vii) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers

(viii) Red phosphorus

(ix) White phosphorus (Other names: Yellow Phosphorus)

* * * * *

3. Section 1310.10 is amended by revising paragraph (a) introductory text to read as follows:

§ 1310.10 Removal of the exemption of drugs distributed under the Food, Drug and Cosmetic Act.

(a) The Administrator may remove from exemption under section 1300.02(b)(28)(i)(D) any drug or group of drugs that the Administrator finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance. In removing a drug or group of drugs from the exemption the Administrator shall consider:

* * * * *

4. Section 1310.14 is added to read as follows:

§ 1310.14 Removal of exemption from definition of regulated transaction.

The Administrator finds that the following drugs or groups of drugs are being diverted to obtain a listed chemical for use in the illicit production of a controlled substance and removes the drugs or groups of drugs from exemption under § 1300.02(b)(28)(i)(D) of this chapter pursuant to the criteria listed in § 1310.10 of this part:

(a) Nonprescription drugs containing ephedrine, its salts, optical isomers, and salts of optical isomers.

(b) Nonprescription drugs containing pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(c) Nonprescription drugs containing phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

Dated: November 7, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–22560 Filed 11–19–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4 and 9

[Notice No. 77; Re: Notice No. 36]

RIN: 1513–AA92

Proposed Establishment of the Calistoga Viticultural Area (2003R–496P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: On March 31, 2005, the Alcohol and Tobacco Tax and Trade Bureau published a notice of proposed rulemaking to establish the Calistoga viticultural area in Napa County, California. In light of comments regarding the potential adverse impact on established brand names that we received in response to that prior notice, we issue this new notice of proposed rulemaking to seek comments on our proposal to provide ''grandfather'' protection for certain brand names used on existing certificates of label approval, provided those labels also carry information that would dispel an impression that the wine meets the requirements for using the viticultural area name. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: We must receive written comments regarding this notice on or before December 20, 2007.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov* (Federal e-rulemaking portal; follow the instructions for submitting comments); or
- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice and any comments we receive about this proposal at *http://www.regulations.gov* under Docket No. 2007–0067. You also may view copies of the previous notice regarding this subject and the comments received in response to it under the same docket number. In addition, you may view this notice, the previous notice, all comments received in response to the two notices, as well as all related petitions, maps, and supporting materials, by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400.

FOR FURTHER INFORMATION CONTACT: Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20220; telephone 202–927–8210; or e-mail *Amy.Greenberg@ttb.gov.*

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area (AVA) and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations specifies the requirements for an AVA petition. The petition to establish Calistoga as an AVA was filed in accordance with these procedures and requirements.

Prior Notice of Proposed Rulemaking

On March 31, 2005, TTB published in the **Federal Register** (70 FR 16451) as Notice No. 36 a notice of proposed rulemaking regarding the establishment of the Calistoga viticultural area. In that notice, we requested comments from all interested persons by May 31, 2005. TTB received two comments regarding Notice No. 36 before the close of the comment period. Both comments fully support the establishment of the Calistoga viticultural area.

Subsequent Comments Received

After the close of the public comment period, we received representations on behalf of two entities opposing the establishment of the Calistoga viticultural area as proposed. These entities are Calistoga Partners, L.P., d.b.a. Calistoga Cellars, and Chateau Calistoga LLC, which uses ''Calistoga Estate'' as its trade name.

In a written submission to TTB, representatives of Calistoga Partners, L.P., expressed opposition to the establishment of the Calistoga viticultural area due to the impact the establishment of an area named ''Calistoga'' would have on the winery and its existing wine labels. In particular, Calistoga Partners noted that it has been using the ''Calistoga Cellars'' name on wine labels since 1998. TTB notes that under 27 CFR 4.25(e), a wine may be labeled with a viticultural area appellation if, among other things, at least 85 percent of the wine is derived from grapes grown within the viticultural area named. Calistoga Partners indicated that its wines would not meet the 85 percent requirement for its existing labels if the proposed viticultural area were established. Because the winery has been using the ''Calistoga Cellars'' brand name on its labels since 1998, it may not rely upon the ''grandfather'' provision in 27 CFR 4.39(i)(2), which applies only to brand names used on certificates of label approval issued prior to July 7, 1986.

The letter also stated that the partnership has collectively invested millions of dollars and years of effort to build the trade name, trademark, and brand name ''Calistoga Cellars.'' Its representatives claim that to lose the use of the name or to be restricted in its use would materially impact the winery. As to the merits of a ''Calistoga'' viticultural area, Calistoga Partners argues that the term ''Calistoga'' is most often associated with the town of Calistoga, which is known as a tourist destination rather than a specific viticultural area.

For these reasons, Calistoga Partners requested that TTB: (1) Reopen the public comment period to allow it and others to provide additional comment on alternative solutions that would protect Calistoga brand names; (2) exempt Calistoga Partners from any restrictive consequences resulting from the establishment of the Calistoga viticultural area through a ''grandfathering'' approach; (3) delay approval of the AVA until an industry-wide solution is implemented to protect Calistoga Partners; or (4) allow Calistoga Partners to continue to use its existing labels with a TTB-approved notice on the back label.

As previously noted, TTB also received comments opposing the establishment of the ''Calistoga'' viticultural area on behalf of Chateau Calistoga LLC, citing the impact that establishment of the AVA would have on existing labels bearing the ''Calistoga Estate'' trade name. This entity stated that it has spent considerable money and time building the ''Calistoga Estate'' name. According to that entity, its wines are made under contract with a winery in Santa Rosa, California, and are produced with grapes from the Napa region, but not necessarily from the Calistoga region. This commenter also supported use of a ''grandfathering'' approach.

Revised Regulatory Text Proposed

After careful consideration of the evidence submitted in support of the petition and the comments received, TTB believes that there is a substantial basis for the establishment of the viticultural area. The petitioners submitted sufficient evidence of the viticultural distinctiveness of the Calistoga area, and no evidence was provided to contradict the petitioners' evidence. TTB also believes that ''Calistoga'' is the most appropriate name for the area. There is ample evidence clearly showing that ''Calistoga'' is the name by which the area is locally and regionally known and that the term ''Calistoga'' by itself has been associated historically with viticulture, specifically Napa Valley viticulture.

Consistent with previous practice, we considered alternative names as a means to resolve conflicts between existing labels and the establishment of a ''Calistoga'' proposed viticultural area. Previously, for example, the ''Oak Knoll District of Napa Valley'' viticultural area (T.D. TTB–9, 69 FR 8562) and the ''Diamond Mountain District'' viticultural area (T.D. ATF–456, 66 FR 29698) were established after resolving such conflicts, resulting in AVA names that were modifications of those originally proposed by the petitioners. The petition to establish the ''Oak Knoll District of Napa Valley'' viticultural area originally proposed the name ''Oak Knoll District''. The petition to establish the ''Diamond Mountain District'' viticultural area originally proposed the name ''Diamond Mountain'' for the viticultural area. In these and similar cases, TTB found that name evidence supported the use of the modified names, that the modified names were associated with the proposed viticultural area boundaries, and that their use reduced potential consumer confusion with long-standing existing labels. In the two cases cited here, Oak Knoll District of Napa Valley and Diamond Mountain District, the petitioners also agreed to the modifications of the viticultural area names.

In the case at hand, the petitioners and commenters have not suggested any modification to the proposed name that would resolve conflicts between existing brand names and the establishment of a ''Calistoga'' viticultural area. Moreover, TTB did not find any potential name modifications to be acceptable substitutes for the proposed ''Calistoga'' viticultural area name. Because the term ''Calistoga'' alone is a specific, not generic, descriptive name that is clearly associated with Napa Valley viticulture, regardless of whether there may be adequate evidence to support a name modification such as ''Calistoga District'', the term ''Calistoga'' alone has viticultural significance, and therefore any viticultural area name including the term ''Calistoga'' would be as problematic as the proposed name.

TTB believes that the evidence submitted by the petitioners indicates that designation of the Calistoga viticultural area would be in conformity with applicable law and regulations. We do not find the request by Calistoga Partners that TTB delay the approval of the ''Calistoga'' viticultural area ''until an industry-wide solution is implemented to protect Calistoga Cellars'' to be an appropriate or responsive resolution. The Calistoga case and cases with similar factual bases involve a fundamental conflict between two otherwise valid and appropriate TTB administrative actions, the approval of labels by TTB through issuance of COLAs and the subsequent approval of a petitioned-for AVA.

However, TTB also believes that Calistoga Partners has demonstrated a legitimate interest in not losing the ability to continue to use its long-held Calistoga Cellars brand name on its wines in the same way it has been using this name. We believe it is desirable to find a solution that will address the legitimate interests of both the Calistoga petitioners, who have an interest in gaining formal recognition of a viticulturally significant area and name, and vintners who have an interest in retaining the use of long-held brand names. We also believe, as a fundamental tenet of administrative practice, that it is preferable to avoid, whenever possible, a situation in which one otherwise proper administrative action (issuance of a certificate of label approval in this case) is restricted by a subsequent, valid administrative action (establishment of a viticultural area). And perhaps most importantly, where a conflict arises between a proposed AVA name and an established brand name, we do not believe that, in the context of the labeling provisions of the FAA Act, it is an appropriate government role to make choices between competing commercial interests, if such choices can be avoided.

Accordingly, for the reasons stated above, we are proposing to add in part 9 a new section covering the Calistoga viticultural area. The new part 9 section text would differ from the section text proposed in Notice No. 36 by the addition of a paragraph (d) to set forth a ''grandfather'' provision that allows continued use of brand names that contain the term ''Calistoga'' even though the wine may not meet the appellation of origin requirements of part 4 for the use of the ''Calistoga'' appellation of origin. Under this ''grandfather'' provision, a brand name containing the word ''Calistoga'' may only appear on wine that does not meet the appellation of origin requirements if: (1) The appropriate TTB officer finds that the brand name has been in actual commercial use for a significant period of time under one or more existing certificates of label approval that were issued under part 4 of this chapter before March 31, 2005; and (2) the wine is labeled with information that the appropriate TTB officer finds to be sufficient to dispel the impression that the use of ''Calistoga'' in the brand name conforms to the appellation of origin requirements of § 4.25. In no case would the grandfather provision apply to a label approved on or after March 31, 2005, the date that Notice No. 36 was published in the **Federal Register** originally proposing the establishment of the Calistoga viticultural area. The proposed rule is intended to limit the adverse effect on established brands, and at the same time dispel any misleading impression that might exist as to the origin of the grapes used in those wines.

We note that this proposed paragraph (d) text would not extend to the use of the name ''Calistoga Estate'' because that name was submitted to TTB for label approval after the notice of proposed rulemaking was made public through publication in the **Federal Register**.

This proposal would not affect the application of the current ''grandfather'' provision in 27 CFR 4.39(i)(2) to any Calistoga brand name used in an existing certificate of label approval issued prior to July 7, 1986.

In this document we have also included a proposed amendment to 27 CFR 4.39(i)(1) to conform that text to the paragraph (d) ''grandfather'' provision in the proposed ''Calistoga'' AVA text in part 9.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Calistoga,'' will be recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the proposed regulation clarifies this point. Consequently, wine bottlers using ''Calistoga'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product either is eligible to use the viticultural area's name as an appellation of origin or meets the requirements for application of the existing ''grandfather'' provision or the ''grandfather'' provision proposed for the Calistoga AVA.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. In addition to the amendment of § 4.39(i)(1) contained in this document, see 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We specifically invite comments from interested members of the public on the proposed ''grandfather'' provision protecting certain brand names used on existing certificates of label approval that contain the proposed ''Calistoga'' viticultural area name, provided those labels also carry information that would dispel an impression that the wine meets the requirements for using the viticultural area name. In addition, we invite comment on the period of time of actual commercial use that would be deemed ''significant'' under the rule, and on alternatives to the proposed regulatory text.

We also solicit comments on what type of dispelling information is sufficient to prevent consumers from being misled as to the origin of the grapes used to produce such wines and comments on the appropriate type size and location on the label for such information. Any other comments related to the approaches in this proposed rule are invited.

Comments that provide the factual basis supporting the views or suggestions presented will be particularly helpful in developing a reasoned regulatory decision of this matter. However, comments consisting of mere allegations or opinions are counterproductive to the rulemaking process that is designed to build a factual evidentiary record for the final rule.

Submitting Comments

You may submit comments on this notice by one of the following two methods:

• *Federal e-Rulemaking Portal:* To submit a comment on this notice using the online Federal e-rulemaking portal, visit *http://www.regulations.gov* and select ''Alcohol and Tobacco Tax and Trade Bureau'' from the agency drop-down menu and click ''Submit.'' In the resulting docket list, click the ''Add Comments'' icon for Docket No. 2007–0067 and complete the resulting comment form. You may attach supplemental files to your comment. More complete information on using Regulations.gov, including instructions for accessing open and closed dockets and for submitting comments, is available through the site's ''User Tips'' link.

• *Mail:* You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via *http://www.regulations.gov*, please enter the entity's name in the ''Organization'' blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice and any electronic or mailed comments we receive about this proposal on the Federal e-rulemaking portal at *http://www.regulations.gov* under Docket No. 2007–0067. You also may view copies of the previous notice regarding this subject and the comments received in response to it under the same docket number. To view a posted document or comment, go to *http://www.regulations.gov* and select ''Alcohol and Tobacco Tax and Trade Bureau'' from the agency drop-down menu and click ''Submit.'' In the resulting docket list, click the appropriate docket number, then click the ''View'' icon for any document or comment posted under that docket number.

All submitted and posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You may also view copies of this notice, the previous notice, and all electronic and mailed comments received in response to the two notices, as well as all related petitions, maps, and supporting materials, by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact our information specialist at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule imposes no new reporting or recordkeeping requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

Amy R. Greenberg and Michael D. Hoover of the Regulations and Rulings Division drafted this document.

List of Subjects

27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter I, parts 4 and 9, as follows:

PART 4—LABELING AND ADVERTISING OF WINE

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

Authority: 27 U.S.C. 205, unless otherwise noted.

2. In § 4.39, paragraph (i)(1) is amended by adding the words ''or in § 9.209(d) of this chapter'' after ''subparagraph (2)''.

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

4. Subpart C is amended by adding § 9.209 to read as follows:

§ 9.209 Calistoga.

(a) *Name.* The name of the viticultural area described in this section is ''Calistoga''. For purposes of part 4 of this chapter, ''Calistoga'' is a term of viticultural significance, but its use in a brand name is also subject to paragraph (d) of this section.

(b) *Approved maps.* The appropriate maps used to determine the boundary of the Calistoga viticultural area are four United States Geological Survey 1:24,000 scale topographic quadrangle maps. They are titled:

(1) Mark West Springs, Calif. (1993);

(2) Calistoga, CA (1997);

(3) St. Helena, Calif. (1960, revised 1993); and

(4) Detert Reservoir, CA (1997).

(c) *Boundary.* The Calistoga viticultural area is located in northwestern Napa County, California. The boundary beginning point is on the Mark West Springs map at the point where the Napa-Sonoma county line intersects Petrified Forest Road in section 3, T8N/R7W. From this point, the boundary:

(1) Continues northeasterly along Petrified Forest Road approximately 1.9 miles to the road's intersection with the 400-foot contour line near the north bank of Cyrus Creek approximately 1,000 feet southwest of the intersection of Petrified Forest Road and State Route 128 on the Calistoga map;

(2) Proceeds generally east-southeast (after crossing Cyrus Creek) along the 400-foot contour line to its intersection with Ritchey Creek in section 16, T8N/R6W;

(3) Follows Ritchey Creek northeast approximately 0.3 miles to its intersection with State Route 29 at the 347-foot benchmark;

(4) Proceeds east-southeast along State Route 29 approximately 0.3 miles to its intersection with a light-duty road labeled Bale Lane;

(5) Follows Bale Lane northeast approximately 0.7 miles to its intersection with the Silverado Trail;

(6) Proceeds northwest along the Silverado Trail approximately 1,500 feet to its intersection with an unmarked driveway on the north side of the Silverado Trail near the 275-foot benchmark;

(7) Continues northeasterly along the driveway for 300 feet to its intersection with another driveway, and then continues north-northeast in a straight line to the 400-foot contour line;

(8) Follows the 400-foot contour line easterly approximately 0.7 miles to its intersection with an unimproved dirt road (an extension of a road known locally as the North Fork of Crystal Springs Road), which lies in the Carne Humana Land Grant approximately 1,400 feet southwest of the northwest corner of section 11, T8N/R6W on the St. Helena map;

(9) Continues northerly along the unimproved dirt road approximately 2,700 feet to its intersection with the 880-foot contour line in section 2, T8N/R6W;

(10) Follows the meandering 880-foot contour line northwesterly, crossing onto the Calistoga map in section 2, T8N/R6W, and continues along the 880-foot contour line through section 3, T8N/R6W, sections 34 and 35, T9N/R6W, (with a brief return to the St. Helena map in section 35), to the 880-contour line's intersection with Biter Creek in the northeast quadrant of section 34, T9N/R6W;

(11) Continues westerly along the meandering 880-foot contour line around Dutch Henry Canyon in section 28, T9N/R6W, and Simmons Canyon in section 29, T9N/R6W, to the contour line's first intersection with the R7W/R6W range line in section 30, T9N/R6W;

(12) Continues northerly along the meandering 880-foot contour line across the two forks of Horns Creek and through Hoisting Works Canyon in section 19, T9N/R6W, crossing between the Calistoga and Detert Reservoir maps, to the contour line's intersection with Garnett Creek in section 13, T9N/R7W, on the Detert Reservoir map;

(13) Continues westerly along the meandering 880-foot contour line, crossing between the Calistoga and Detert Reservoir maps in sections 13 and 14, T9N/R7W, and in the region labeled ''Mallacomes or Moristul y Plan de Agua Caliente,'' to the contour line's intersection with the Napa-Sonoma county line approximately 1.1 miles northeast of State Route 128 in the ''Mallacomes or Moristul y Plan de Agua Caliente'' region, T9N/R7W, of the Mark Springs West map; and

(14) Proceeds southerly along the Napa-Sonoma county line to the beginning point.

(d) *Brand names.* A brand name containing the word ''Calistoga'' may be used on a label only if:

(1) The wine meets the appellation of origin requirements of § 4.25 of this chapter for the viticultural area established by this section;

(2) The appropriate TTB officer finds that the brand name has been in actual commercial use for a significant period of time under one or more existing

certificates of label approval that were issued under part 4 of this chapter before March 31, 2005, and the wine is labeled with information that the appropriate TTB officer finds to be sufficient to dispel the impression that the use of ''Calistoga'' in the brand name conforms to the appellation of origin requirements of § 4.25 of this chapter; or

(3) The use of the brand name complies with § 4.39(i)(2) of this chapter.

Signed: November 7, 2007.

John J. Manfreda,

Administrator.

Approved: November 7, 2007.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E7–22715 Filed 11–19–07; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 9, and 70

[Notice No. 78]

RIN 1513–AB39

Proposed Revision of American Viticultural Area Regulations (2006R–325P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend its regulations concerning the establishment of American viticultural areas (AVAs). The proposed changes address the effect that the approval of an AVA may have on established brand names. In addition, the proposed changes provide clearer regulatory standards for the establishment of AVAs within AVAs. The proposed amendments also clarify the rules for preparing, submitting, and processing viticultural area petitions. Finally, we propose to add to the regulations statements regarding the viticultural significance of established viticultural area names, or key portions of those names, for wine labeling purposes.

DATES: We must receive written comments on or before January 22, 2008.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- *E-mail: http://www.regulations.gov* (Federal e-rulemaking portal; follow the instructions for submitting comments);
- *U.S. mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or
- *Hand Delivery/Courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice and any comments we receive about this proposal at *http://www.regulations.gov* under Docket No. 2007–0068. You also may view copies of this notice and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400.

FOR FURTHER INFORMATION CONTACT: Rita D. Butler, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20220; telephone: 202–927–1608, fax: 202–927–8525.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) provides for the establishment of definitive viticultural areas and for the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) prescribes the standards for submitting a petition to establish a new American viticultural area (AVA) and contains a list with descriptions of all approved AVAs. Part 70 of the TTB regulations (27 CFR part 70) includes provisions regarding rulemaking petition procedures.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been recognized and defined in part 9 of the TTB regulations. These AVA designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Current AVA Petition Process

Section 9.3 of the TTB regulations (27 CFR 9.3) sets forth the procedure and standards for the establishment of AVAs. Paragraph (a) of that section states that TTB will use the rulemaking process based on petitions received in accordance with §§ 4.25(e)(2) and 70.701(c) to establish AVAs. Paragraph (b) of § 9.3 states that a petition for the establishment of an AVA must contain the following:

- Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the application;
- Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) that distinguish the viticultural features of the proposed area from surrounding areas;
- The specific boundaries of the viticultural area, based on features that can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and
- A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

The Need for Regulatory Changes

For a number of reasons, TTB and Treasury believe that a comprehensive review of the AVA program is warranted in order to maintain the integrity of the program. First, we are concerned that because the establishment of an AVA can limit the use of existing brand names, approval of an AVA can have a deleterious effect on established businesses, can limit competition, and can be used by petitioners to adversely affect a competitor's business. We note in this regard that where a conflict exists between a proposed AVA name and an established brand name used on a wine label approved by TTB, a choice must be made between competing commercial interests; we do not believe that, in the context of the labeling provisions of the FAA Act, it is an appropriate governmental role to make choices that undermine the commercial interests of particular entities, if such choices can be avoided.

In addition, we note that over the years there has been an increase in the number of petitions for the establishment of new AVAs within already existing AVAs. Because the idea behind the recognition of an AVA is that it is a unique area for viticultural purposes with reference to what is outside it, we believe that preserving the integrity of the AVA program mandates clarifying the standards for AVAs to foster greater scrutiny on the establishment of new AVAs within existing AVAs.

Finally, there is a need to explain and clarify the AVA petition submission and review process and to clearly state the existing authority to deny, and the grounds for denying, an AVA rulemaking petition.

AVA Name and Brand Name Conflict

The designation of a new AVA can create a conflict with existing brand names. This conflict can arise because a brand name that includes an approved AVA name may not be used unless at least 85 percent of the wine is derived from grapes grown within the boundaries of the AVA. Moreover, TTB prohibits the use of misleading brand names (27 CFR 4.33), and also prohibits brand names that tend to create the impression that the wine is entitled to bear a designation recognized by TTB unless the wine meets the requirements for that designation (27 CFR 4.39(a)(8)). The establishment of a new AVA could give rise to a misleading impression regarding the provenance of a wine that carries a known brand name similar to the AVA name but that does not meet the 85 percent requirement that applies to AVA name usage, thereby not providing the consumer with adequate information as to the identity and quality of the wine and creating confusion for consumers and jeopardizing the producer's continued use of the wine label in question.

The effect of the current regulatory provisions is to give precedence to the establishment of an AVA over the use of a brand name on a previously approved label. If a wine is not eligible for labeling with the viticultural area name and that name appears in the brand name, then the label would not be in compliance and TTB would require the bottler to obtain approval of a new label with a new brand name. In effect, vintners are on notice that continued use of a brand name having geographical significance could be jeopardized by the subsequent establishment of an AVA using an identical or similar name. In practice, however, TTB works with petitioners to amend petitions in order to limit the adverse impact on established brand names.

For several reasons, we believe it is important to dispel any misconceptions that AVA petitions will be approved without regard to their impact on established brands. First, we do not wish to discount the commercial and informational value of an established brand name, which often is built up over a period of time by substantial investments in capital and hard work. Second, we do not wish to overlook the possibility that, contrary to the purpose of the FAA Act, the use of the new AVA name on a label could be misleading to those consumers who have associated that name with wine bearing an identical or similar brand name but produced from grapes grown outside the new AVA. Finally, we do not believe it to be sound public policy to allow an AVA petitioner to use a petition not for purposes consistent with the FAA Act but rather as a means to limit competition from holders of established brands.

AVAs Within AVAs

In recent years, TTB has received an increasing number of petitions that propose a boundary change to an existing AVA, the establishment of an AVA entirely or partially within an existing AVA, or the establishment of a new, larger AVA that would encompass all of one or more existing AVAs. TTB has come to recognize that such petitions can create the appearance of a conflict or inconsistency because, with reference to the criteria set forth in § 9.3(b), the new petition might draw into question the accuracy and validity of the evidence presented in support of the establishment of the existing AVA or the legitimacy of the justification for establishing the AVA. For example, with reference to the boundary description and the geographical features criteria, a change in an existing AVA boundary, or the adoption of a new AVA within an existing AVA, could suggest that the original boundary was improperly drawn or that there is no unity or consistency in the features of the existing AVA that give it a unique and distinctive identity in a viticultural sense.

When a new AVA was established entirely within an existing AVA, TTB traditionally took the position that a wine that meets the 85 percent standard for the new, smaller AVA would automatically meet the 85 percent standard for the larger AVA. However, depending on the facts involved, we recognize that this position could run counter to the principle that an AVA is unique with reference to what is outside its boundary for viticultural purposes. In other words, depending on the unique facts presented in each AVA petition, an argument could be made that the smaller AVA is, by its very existence, distinct from the AVA that surrounds it, with the result that wine produced within it could not be labeled with the name of the larger AVA.

We believe that in order to preserve the integrity of the AVA program, the above considerations demonstrate a need for greater clarity for, and closer scrutiny of, petitions for the establishment of new AVAs and for changes to existing AVAs. The petitioner should be expected to dispel any apparent inconsistency or to explain why it is acceptable.

Petition Submission and Review Process

Under TTB's current AVA petition process, we process all AVA petitions that are submitted to us. TTB's practice is to work with the petitioner both before and after submission of the petition to ensure that it contains all necessary information. TTB specialists spend considerable time reviewing the petition, contacting the petitioner, and requesting missing evidence from the petitioner. In some cases, deficient petitions are returned to the petitioner for revision and resubmission. Only after the petition is perfected (that is, it appears to contain all of the information required under § 9.3) do we proceed with preparation of an appropriate rulemaking document. As a general rule, the practice of TTB has been to accept the information provided by the petitioner in a perfected petition with the assumption that the information provided is true and correct. TTB does not conduct a detailed, separate investigation of the validity of the petition evidence at that point. TTB relies on comments provided in response to the published notice of proposed rulemaking (NPRM), to confirm or refute the information provided by the petitioner.

We also note that whereas the TTB regulations in part 9 speak in terms of what an AVA petition must contain, they do not clearly reflect the fundamental administrative principle that the authority to grant carries a concomitant authority to deny an AVA petition. We have come to realize that some believe that all that is necessary to successfully petition for the establishment of an AVA is to submit a petition with evidence under the terms of § 9.3(b).

Our view, however, is that under the current regulatory framework approval of an AVA petition is totally discretionary, because TTB already has authority not to initiate rulemaking, or not to approve the petitioned-for AVA action after publication of a proposal, for any one of a number of reasons, such as:

- The evidence submitted with the petition does not adequately support use of the name proposed for a new AVA;
- The evidence of distinguishing features submitted with the petition does not support drawing or redrawing the AVA boundary as proposed;
- The extent of viticulture within the proposed boundary is not sufficient to constitute a grape-growing region within the intendment of the AVA program; or
- Approval of a proposed new AVA would be inconsistent with the purpose of the FAA Act, contrary to another statute or regulation, or otherwise not in the public interest.

We believe, however, that the part 9 regulations should more completely describe the submission and review process, including the various actions that TTB may take at each stage of the AVA petitioning procedure.

Overview of Proposed Changes

Based on the above considerations, TTB believes that the present regulations require further clarification of the regulatory basis for the most effective administration of the AVA program. To help clarify this situation, this document proposes to amend three provisions within part 4 of the TTB regulations that concern AVAs, to revise subparts A and B of part 9 of the TTB regulations, to amend various sections within subpart C of part 9, and to amend one provision within part 70 of the TTB regulations.

Part 4 Amendments

At the beginning of the AVA program, TTB's predecessor agency and Treasury issued 27 CFR 4.39(i), which permits the continued use of brand names that had been used in certificates of label approval (COLAs) issued before July 7, 1986, subject to application of any one of three conditions. The first two conditions refer to existing appellation of origin labeling requirements, and the third condition provides for labeling the wine with some other statement that TTB finds to be sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of the origin of the wine.

This ''grandfather'' approach was intended to protect brand names that had existed prior to the development of the AVA program. This solution, however, was not forward-looking and, therefore, does not address conflicts between AVAs and brand names in COLAs that came into existence after July 7, 1986. Since July 1986, more than 100 AVAs have been established in response to petitions from industry members and grape growers, reflecting the increased interest in, and spread of, viticulture throughout the United States. In addition, in recent years an increasing number of petitions have been submitted that, if the AVA were to be established with the petitioned-for name, would affect established brand names. As noted above, our intent in administering the AVA program, consistent with the intent behind the original ''grandfather'' approach, is to recognize established grape-growing regions while avoiding interference with established brand names.

While TTB will continue to work with future AVA petitioners to limit the adverse impact on established brand names, we recognize that sometimes it will not be possible to amend a petition to achieve this result. In such cases, we believe that application of a new prospective ''grandfather'' approach would achieve the most balanced result. Accordingly, we are proposing to amend § 4.39(i) by adding a new ''grandfathering'' standard that would apply in the case of AVAs established after adoption of the final rule in this matter and that would be based on a specified number of years that a COLA was issued, and whether the brand label was in actual commercial use, before receipt by TTB of a perfected AVA petition. This approach would permit the establishment of the AVA and at the same time afford appropriate protection of existing labels.

In addition, we propose to update two provisions within § 4.25(e) and conform them to the proposed changes to part 9, as explained below.

Part 9 Amendments

The proposed changes to subparts A and B of part 9 are intended to clarify the operation of the AVA petition and rulemaking process by explaining how a petitioner must submit an AVA petition to TTB, by setting forth with considerably greater specificity what information a petition must contain, and by explaining how TTB will process these petitions. The amended regulations would also clearly state that TTB may, at its discretion, decide not to proceed with rulemaking after receipt of a petition but that TTB will provide an explanation to the petitioner in such a case.

Further, the proposed amendments to subparts A and B of part 9 specifically address the requirements for proposed boundary and name changes to existing AVAs, in order to ensure that an AVA proposal published by TTB to change an existing AVA (for example, a boundary expansion) has adequate supporting evidence. The specification of requirements for boundary changes will ensure that TTB receives petitions that conform to AVA regulatory standards rather than to considerations that are not central to the AVA concept, such as the desire to bring an individual vineyard into an existing AVA.

We also propose to clarify in the subpart A and B regulatory texts that TTB has the discretion to decide whether or not to proceed with rulemaking with regard to any submitted and perfected AVA petition, provided the reasons are communicated to the petitioner in writing. In addition, the proposed amendments reflect the authority of TTB to decide not to proceed with approval of the petitioned-for AVA action after publication of the NPRM. To these ends, the proposed regulatory amendments attempt to make a clear distinction between the petition process and the rulemaking process, because a decision not to go forward may be made at either stage.

The proposed amendments in subpart C are intended to draw the attention of the reader to the viticultural significance of names of previously established AVAs, or notable portions of those names, for wine labeling purposes under part 4 of the TTB regulations. These amendments are consistent with the practice employed by TTB over the past several years of including a second sentence in paragraph (a) of each section covering a new AVA, to specify what is viticulturally significant as a result of the establishment of the AVA. While in most cases only the full name of the AVA is specified in each of the subpart C amendments contained in this document, in some instances a portion of the name is also identified as viticulturally significant if, based on TTB's label approval practice, its use on a label could be taken to represent the full AVA name. While we have attempted to avoid specifying a part of an AVA name where such action might jeopardize the continued use of an approved label, we specifically invite comments on whether any existing labels would be at risk if the proposed amendments are adopted as a final rule.

Part 70 Amendment

Finally, we propose a conforming amendment to § 70.701(c) of the TTB regulations (27 CFR 70.701(c)), which concerns petitions to change TTB's rules.

Additional points regarding the proposed regulatory amendments are set forth in the section-by-section discussion below.

Section-by-Section Discussion of Proposed Changes

Section 4.25

We are proposing to revise the definition of viticultural area for American wine contained in § 4.25(e)(1)(i) to conform it to the new definition of ''American viticultural area'' proposed for part 9. In addition, we are proposing to revise § 4.25(e)(2) to conform it to the restructuring of part 9 and to correct a wording error in the present text.

Section 4.39(i)

We are proposing to add a new paragraph (3) to § 4.39(i) to set forth the new grandfather provision, with a consequential redesignation of present paragraph (3) as (4). The new provision would apply to AVAs and terms used in AVA names established as viticulturally significant under part 9 after the effective date of the final rule on this rulemaking action. As in the case of the present paragraph (2) grandfather provision, the new text would require the use of dispelling information regarding the origin of the wine.

The proposed new regulatory text refers to brand names that were used in COLAs issued prior to the 5-year period immediately preceding receipt of the perfected petition for establishment of the new AVA and that were in actual commercial use on labels for at least 3 years during that 5-year period as demonstrated by the COLA holder. We decided to propose two different periods of time because COLA issuance often precedes entry of a product into the marketplace by a year or more. We chose the 5-year period for COLA issuance because we believe that this is a reasonable period of time for the establishment of an ongoing viticultural enterprise, and we chose the 3-year period for actual commercial use because we believe that this is a reasonable period of time for achieving consumer recognition and loyalty.

Under the proposed regulatory text, the mere possession of a COLA for 5 years or more would not be sufficient to trigger the new ''grandfather'' clause—it also would have to be established that the product in fact had a presence in the marketplace for at least 3 years during the 5-year period. We would not consider the mere placement of a label on a wine bottle to be actual commercial use because more would be required, that is, actual entry into the marketplace.

In addition to new paragraph (3), we are proposing to amend § 4.39(i) by revising paragraphs (1) and (2) to better express the cross-references and to simplify the text of paragraph (2) by removing paragraph (2)(i), which repeats a rule stated in paragraph (1) and thus is redundant. These proposed changes are purely editorial and do not affect the substance of the texts.

Section 9.0

We are proposing to add a new § 9.0 before subpart A to define the scope of the part 9 regulations. This new section replaces, and slightly expands upon the wording of, present § 9.1. We believe that this scope section is more appropriately placed before subpart A since it is intended to operate more as a reader's aid than as a substantive regulation.

Section 9.1

This proposed definitions section would replace present § 9.11 and would be the first section under subpart A. We believe that it is better regulatory practice to have a definitions section as the first substantive section within a part rather than following other sections that use the terms defined in it. The text is divided into paragraphs (a) and (b), with paragraph (a) containing the various definitions and paragraph (b) containing the ''use of other terms'' recitation in the present text, which is more substantive than definitional in nature.

Within paragraph (a) of new § 9.1, we propose to add new definitions covering ''appropriate TTB officer,'' ''AVA,'' ''perfected petition,'' ''person,'' ''petition,'' ''petitioner,'' ''term of viticultural significance,'' and ''TTB.'' In addition, we propose to combine the present definitions for ''American'' and ''viticultural area'' into one definition of ''American viticultural area.'' Finally, we propose a nonsubstantive wording change to the definition of ''approved map.''

Section 9.3

We are proposing to add a new § 9.3 to describe the delegations of the Administrator's authorities for the administration of part 9. This is consistent with the practice under other parts of the TTB regulations.

Section 9.11

This new section would be the first section under subpart B, is intended to cover in more detail the petition submission process, and essentially reflects current practice as described above. It also clarifies both TTB's authority to decide whether to take action in response to a petition and the fact that mere receipt of a petition does not compel the publication of a rulemaking document in the **Federal Register**.

Section 9.12

This new section sets forth significantly elaborated AVA petition content standards to address a number of the concerns outlined earlier in this document. The proposed text distinguishes between petitions for the establishment of a new AVA and petitions for changes to an existing AVA. It also sets forth specific additional standards for petitions proposing the establishment of a new AVA entirely within, or overlapping, an existing AVA, or proposing the establishment of a new, larger AVA encompassing all of one or more existing AVAs. In the case of an AVA entirely within another AVA, the text states that in some cases TTB may determine that the smaller AVA will not be considered to be part of the larger AVA because of its particular distinctiveness; such a determination would be made only in connection with rulemaking involving a new AVA and therefore would only be applied prospectively. In addition, in the case of changes to existing AVAs, the text distinguishes between boundary changes and name changes. TTB believes that these distinctions are necessary to maintain the integrity of the AVA program, because different evidence or other information may be necessary to support a petition depending on the specific petitioned-for action.

Section 9.13

This new section covers the initial processing of an AVA petition after receipt by TTB, and it largely reflects TTB's present practice. The proposed text clarifies that the mere receipt of a perfected petition does not necessarily mean that TTB will proceed with rulemaking, and that the reasons for not proceeding with rulemaking will be set forth in writing to the petitioner. Thus, it is the intent of TTB to maintain a clear distinction between the processing of a petition and the initiation of rulemaking, which is the subject of the next section. If TTB decides to proceed with rulemaking, the new section also provides that TTB will advise the petitioner of the date of receipt of the perfected petition and will place a notice on the TTB Web site that the petition has been accepted for rulemaking.

Section 9.14

This new section covers the rulemaking process, which commences only after a decision is made under § 9.13 to proceed to rulemaking (preparation and publication of the NPRM). It includes a description of various final actions that TTB might take after the close of the public comment period and review of the comments submitted and any other relevant information that comes to the attention of TTB that might have a bearing on the action taken by TTB.

Among the proposed final actions that TTB might take is publication of a notice withdrawing the proposal to establish the AVA. In addition to a failure of a petition to identify an actual grape-growing region or to provide adequate name, boundary, and distinguishing features evidence, a proposed basis for such a withdrawal could be that adoption of the proposal would be inconsistent with a purpose of the FAA Act or any other Federal statute or regulation or would be otherwise contrary to the public interest. TTB believes that the latter grounds for withdrawing a proposal are appropriate based on the principle that administrative practice should always be consistent with, and never contrary to, law and public policy. As in the case of a withdrawal based on insufficient petition evidence, the **Federal Register** document announcing the withdrawal would explain the specific considerations upon which the withdrawal is based.

Subpart C

The proposed amendments within subpart C (in paragraphs 6 through 166) are consistent with the practice employed by TTB, which is to include a sentence in paragraph (a) to specify what is viticulturally significant as a result of the establishment of the AVA. The specification of a portion of an AVA name is based on TTB's label approvals as reflected in the TTB Public COLA Registry.

Section 70.701(c)

The amendment to § 70.701(c) involves the addition of a reference to part 9 regarding a petition to establish a grape-growing region as a new AVA or to modify an existing AVA.

Public Participation

Comments Invited

We invite comments from interested members of the public on this proposed rulemaking, including the proposed regulatory text.

In addition, we invite comment on the following specific questions:

1. Whether additional or different standards should apply to the establishment of an AVA; for example, whether there should be a requirement that a specified percentage of the land mass of the proposed AVA be involved in viticultural activities.

2. Whether in some or all cases the establishment of a smaller AVA located within the boundaries of a larger AVA should result in a prohibition against the use of the larger AVA name on wine labels.

3. Whether the use of a ''grandfather'' provision to avoid conflicts between an established brand name and the establishment of a proposed AVA is appropriate.

4. Whether the terms of the proposed ''grandfather'' provision are appropriate and, if so, what time periods should apply to establish commercial use of the brand name involved in a conflict.

5. Whether it would be more appropriate to adopt an alternative to the ''grandfather'' provision proposed that would apply to brand names that have longstanding commercial use under one or more existing certificates of label approval without specifying a time period.

6. What type of dispelling information would prevent consumers from being misled as to the origin of the wine when a ''grandfather'' provision applies. Other comments for a requirement on dispelling information are encouraged.

Submitting Comments

You may submit comments on this notice by one of the following methods:

• *Federal e-Rulemaking Portal:* To submit a comment on this notice using the online Federal e-rulemaking portal, visit *http://www.regulations.gov* and select ''Alcohol and Tobacco Tax and Trade Bureau'' from the agency drop-down menu and click ''Submit.'' In the resulting docket list, click the ''Add Comments'' icon for Docket No. 2007–0068 and complete the resulting comment form. You may attach supplemental files to your comment. More complete information on using Regulations.gov, including instructions for accessing open and closed dockets and for submitting comments, is available through the site's ''User Tips'' link.

• *Mail:* You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

• *Hand Delivery/Courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via *http://www.regulations.gov,* please enter the entity's name in the ''Organization'' blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, we will post, and you may view, copies of this notice and any electronic, mailed, or hand-delivered comments we receive about this proposal. To view a posted document or comment, go to *http://www.regulations.gov* and select ''Alcohol and Tobacco Tax and Trade Bureau'' from the agency drop-down menu and click ''Submit.'' In the resulting docket list, click the appropriate docket number, then click the ''View'' icon for any document or comment posted under that docket number.

All submitted and posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed or hand-delivered comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You also may view copies of this notice and any electronic, mailed, or hand-delivered comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 × 11-inch page. Contact our information specialist at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments or other materials.

Regulatory Analysis and Notices

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. This proposed rule merely clarifies existing regulatory standards and imposes no new reporting, recordkeeping, or other administrative requirements. Therefore, it requires no regulatory assessment.

Regulatory Flexibility Act

We certify that these proposed regulations, if adopted, would not have a significant economic impact on a substantial number of small entities. As the submittal of a petition to TTB to establish a new AVA or change an existing AVA is voluntary, we believe that the proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to OMB at *Alexander_T._Hunt@omb.eop.gov,* or by paper mail to Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Alcohol and Tobacco Tax and Trade Bureau by any of the methods previously described. Because OMB must complete its review of the collection of information between 30 and 60 days after publication, comments on the information collection should be submitted not later than December 20, 2007. Comments are specifically requested concerning:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- The accuracy of the estimated burden associated with the proposed collection of information (see below);
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed collection of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in 27 CFR 9.11 and 9.12. This information is required to petition TTB to establish a new AVA or to change an existing AVA. This information will be used to verify evidence sources and to determine whether the information is sufficient to begin the rulemaking process (that is, proceed to a notice of proposed rulemaking). The collection of information is required to obtain a benefit. The likely respondents are non-profit institutions and small businesses or organizations.

- *Estimated total annual reporting and/or recordkeeping burden:* 2,398 hours.
- *Estimated average annual burden hours per respondent:* 218 hours.
- *Estimated number of respondents:* 11 per year.
- *Estimated annual frequency of responses:* 1.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Drafting Information

Rita D. Butler of the Regulations and Rulings Division drafted this document.

List of Subjects

27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, and Wine.

27 CFR Part 9

Wine.

27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, and Surety bonds.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 4, 9, and 70, as follows:

PART 4—LABELING AND ADVERTISING OF WINE

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

Authority: 27 U.S.C. 205, unless otherwise noted.

2. In § 4.25, paragraphs (e)(1)(i) and (e)(2) are revised to read as follows:

§ 4.25 Appellations of origin.

* * * * *

(e) *Viticultural area*—(1) *Definition*—(i) *American wine.* A delimited grape growing region having distinguishing features as described in part 9 of this chapter and a name and a delineated boundary as established in part 9 of this chapter.

* * * * *

(2) *Establishment of American viticultural areas.* A petition for the establishment of an American viticultural area may be made to the Administrator by any interested party, pursuant to part 9 and § 70.701(c) of this chapter. The petition must be made in written form and must contain the information specified in § 9.12 of this chapter.

* * * * *

3. In § 4.39, paragraphs (i)(1) and (i)(2) are revised, paragraph (i)(3) is redesignated as paragraph (i)(4), and a new paragraph (i)(3) is added, to read as follows:

§ 4.39 Prohibited practices.

* * * * *

(i) *Geographic brand names.* (1) Except as provided in paragraph (i)(2) or (3) of this section, a brand name of viticultural significance may not be used unless the wine meets the appellation of origin requirements for the geographic area named.

(2) For brand names used in existing certificates of label approval issued prior to July 7, 1986:

(i) The wine shall be labeled with an appellation of origin in accordance with § 4.34(b) of this chapter as to location and size of type of either:

(A) A county or a viticultural area, if the brand name bears the name of a geographic area smaller than a state; or

(B) A state, county or a viticultural area, if the brand name bears a state name; or

(ii) The wine shall be labeled with some other statement which the appropriate TTB officer finds to be sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of the origin of the wine.

(3) Brand names that do not meet the requirements of paragraph (i)(2) of this section and that contain the name of a viticultural area or other term of viticultural significance established under part 9 of this chapter on or after [INSERT EFFECTIVE DATE OF FINAL RULE] may be used in conjunction with information which the appropriate TTB officer finds to be sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of the origin of the wine, provided that the brand name:

(i) Was used in an existing certificate of label approval issued prior to the 5-year period immediately preceding receipt of the perfected petition for establishment of the viticultural area; and

(ii) Was in actual commercial use on labels for at least 3 years during that 5-year period.

* * * * *

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

5. A new § 9.0 is added before Subpart A to read as follows:

§ 9.0 Scope.

The regulations in this part relate to American viticultural areas created under the authority of the Federal Alcohol Administration Act and referred to in § 4.25(e) of this chapter.

6. Subparts A and B are revised to read as follows:

Subpart A—General Provisions

§ 9.1 Definitions.

(a) *General.* For purposes of this part, and unless the specific context otherwise requires, the following terms shall have the meanings indicated:

Administrator. The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

American viticultural area. A viticultural area as defined in § 4.25(e)(1)(i) of this chapter.

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.9, Delegation of the Administrator's Authorities in 27 CFR Part 9, American Viticultural Areas.

Approved map. The U.S.G.S. map(s) used to define the boundary of an approved AVA.

AVA. An American viticultural area.

Perfected petition. A petition containing all of the evidence meeting the requirements of § 9.12 and containing sufficient supporting information for TTB to decide whether or not to proceed with rulemaking to establish a new AVA or to change an existing AVA.

Person. An individual, partnership, association, corporation, or other entity.

Petition. A written request to establish a new AVA or to change an existing AVA, signed by the petitioner or an authorized agent of the petitioner, and submitted in accordance with this part and § 70.701(c) of this chapter.

Petitioner. An individual or entity that submits a petition to TTB.

Term of viticultural significance. A term recognized under § 4.39(i)(3) of this chapter.

TTB. The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

U.S.G.S. The United States Geological Survey.

(b) *Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by that Act.

§ 9.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

§ 9.3 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. Those TTB officers are specified in TTB Order 1135.9, Delegation of the Administrator's Authorities in 27 CFR Part 9, American Viticultural Areas. You may obtain a copy of this order by accessing the TTB Web site (*http://www.ttb.gov*) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

Subpart B—AVA Petitions

§ 9.11 Submission of AVA petitions.

(a) *Procedure for petitioner.* Any person may submit an AVA petition to TTB to establish a grape-growing region as a new AVA, to change the boundary of an existing AVA, or to change the name of an existing AVA. The petitioner is responsible for including with the petition all of the information specified in § 9.12. The person submitting the petition is also responsible for providing timely and complete responses to TTB requests for additional information to support the petition.

(b) *How and where to submit an AVA petition.* The AVA petition may be sent to TTB using the U.S. Postal Service or a private delivery service. A petition sent through the U.S. Postal Service should be addressed to: Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220. A petition sent via a private delivery service should be directed to: Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Suite 200E, 1310 G Street, NW., Washington, DC 20005.

(c) *Purpose and effect of submission of AVA petitions.* The submission of a petition under this subpart is intended to provide TTB with sufficient documentation to propose the establishment of a new AVA or to propose changing the name or boundary of an existing AVA. After considering the petition evidence and any other relevant information, TTB shall decide what action to take in response to a petition and shall so advise the petitioner. Nothing in this chapter shall, or shall be interpreted to, compel any Department of the Treasury official to proceed to rulemaking in response to a submitted petition.

§ 9.12 AVA petition requirements.

(a) *Establishment of an AVA in general.* A petition for the establishment of a new AVA must include all of the evidentiary materials and other information specified in this section. The petition must stand on its own and require no independent verification or research by TTB.

(1) *Name evidence.* The name identified for the proposed AVA must be currently and directly associated with an area in which viticulture exists. All of the area within the proposed AVA boundary must be nationally or locally known by the name specified in the petition, although the use of that name may extend beyond the proposed AVA boundary. The name evidence must conform to the following rules:

(i) *Name usage.* The petition must completely explain, in narrative form, the manner in which the name is used for the area covered by the proposed AVA.

(ii) *Source of name and name evidence.* The name and the evidence in support of it must come from sources independent of the petitioner. Appropriate name evidence sources include, but are not limited to, historical and modern government or commercial maps, books, newspapers, magazines, tourist and other promotional materials, local business or school names, and road names. Whenever practicable, the petitioner must include with the petition copies of the name evidence materials, appropriately cross-referenced in the petition narrative. Although anecdotal information by itself is not sufficient, statements taken from local residents with knowledge of the name and its use may also be included to support other name evidence.

(2) *Boundary evidence.* The petition must explain in detail the basis for defining the boundary of the proposed AVA as set forth in the petition. This explanation must have reference to the name evidence and other distinguishing features information required under this section. In support of the proposed boundary, the petition must outline the commonalities or similarities within that boundary and must explain with specificity how those elements are different in the adjacent areas outside that boundary.

(3) *Distinguishing features.* The petition must provide, in narrative form, a description of the common or similar features of the proposed AVA affecting viticulture that make it distinctive. The petition must also explain with specificity in what way these features affect viticulture and how they are distinguished viticulturally from features associated with adjacent areas outside the proposed AVA boundary. For purposes of this section, information relating to distinguishing features affecting viticulture includes the following:

(i) *Climate.* Temperature, precipitation, wind, fog, solar orientation and radiation, and other climate information;

(ii) *Geology.* Underlying formations, landforms, and such geophysical events as earthquakes, eruptions, and major floods;

(iii) *Soils.* Soil series or phases of a soil series, denoting parent material, texture, slope, permeability, soil reaction, drainage, and fertility;

(iv) *Physical features.* Flat, hilly, or mountainous topography, geographical formations, bodies of water, watersheds, irrigation resources, and other physical features; and

(v) *Elevation.* Minimum and maximum elevations.

(4) *Maps and boundary description*—(i) *Maps.* The petitioner must submit with the petition, in an appropriate scale, the U.S.G.S. map(s) showing the location of the proposed AVA. The exact boundary of the AVA must be prominently and clearly drawn on the maps without obscuring the underlying features that define the boundary line. U.S.G.S. maps may be obtained from the U.S. Geological Survey, Branch of Distribution. If the map name is not known, the petitioner may request a map index by State.

(ii) *Boundary description.* The petition must include a detailed narrative description of the proposed AVA boundary based on U.S.G.S. map markings. This description must have a specific beginning point, must proceed unbroken from that point in a clockwise direction, and must return to that beginning point to complete the boundary description. The boundary description must refer to easily discernable reference points on the U.S.G.S. maps. The proposed AVA boundary description may rely on any of the following map features:

(A) State, county, township, forest, and other political entity lines;

(B) Highways, roads (including unimproved roads), and trails;

(C) Contour or elevation lines;

(D) Natural geographical features, including rivers, streams, creeks, ridges, and markedelevation points (such as summits or benchmarks);

(E) Human-made features (such as bridges, buildings, windmills, or water tanks); and

(F) Straight lines between marked intersections, human-made features, or other map points.

(b) *AVAs within AVAs.* If the petition proposes the establishment of a new AVA entirely within, or overlapping, an existing AVA, the evidence submitted under paragraph (a) of this section must include information that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition. If the petition proposes the establishment of a new AVA that is larger than, and encompasses, all of one or more existing AVAs, the evidence submitted under paragraph (a) of this section must include information addressing whether, and to what extent, the attributes of the proposed AVA are consistent with those of the existing AVA(s). In any case in which an AVA would be created entirely within another AVA, whether by the establishment of a new, larger AVA or by the establishment of a new AVA within an existing one, the petition must dispel any apparent inconsistency or explain why it is acceptable. When a smaller AVA has name recognition and features that so clearly distinguish it from a larger AVA that surrounds it, TTB may determine in the course of the rulemaking that it is not part of the larger AVA and that wine produced from grapes grown within the smaller AVA would not be entitled to use the name of the larger AVA as an appellation of origin or in a brand name.

(c) *Modification of an existing AVA*—(1) *Boundary change.* If a petition seeks to change the boundary of an existing AVA, the petitioner must include with the petition all relevant evidence and other information specified for a new AVA petition in paragraphs (a) and (b) of this section. This evidence or information must include, at a minimum, the following:

(i) *Name evidence.* If the proposed change involves an expansion of the existing boundary, the petition must show how the name of the existing AVA also applies to the expansion area. If the proposed change would result in a decrease in the size of an existing AVA, the petition must explain the extent to which the AVA name does not apply to the excluded area.

(ii) *Distinguishing features.* The petition must demonstrate that the area covered by the proposed change has, or does not have, distinguishing features affecting viticulture that are essentially the same as those of the existing AVA. If the proposed change involves an expansion of the existing AVA, the petition must demonstrate that the area covered by the expansion has the same distinguishing features as those of the existing AVA and has different features from those of the area outside the proposed, new boundary. If the proposed change would result in a decrease in the size of an existing AVA, the petition must explain how the distinguishing features of the excluded area are different from those within the boundary of the smaller AVA. In all cases the distinguishing features must affect viticulture.

(iii) *Boundary evidence and description.* The petition must explain how the boundary of the existing AVA was incorrectly or incompletely defined or is no longer accurate due to new evidence or changed circumstances, with reference to the name evidence and distinguishing features of the existing

AVA and of the area affected by the proposed boundary change. The petition must include the appropriate U.S.G.S. maps with the proposed boundary change drawn on them and must provide a detailed narrative description of the changed boundary.

(2) *Name change.* If a petition seeks to change the name of an existing AVA, the petition must establish the suitability of that name change by providing the name evidence specified in paragraph (a)(1) of this section.

§ 9.13 Initial processing of AVA petitions.

(a) *TTB notification to petitioner of petition receipt.* The appropriate TTB officer will acknowledge receipt of a submitted petition. This notification will be in a letter sent to the petitioner within 30 days of receipt of the petition.

(b) *Acceptance of a perfected petition or return of a deficient petition to the petitioner.* The appropriate TTB officer will perform an initial review of the petition to determine whether it is a perfected petition. If the petition is not perfected, the appropriate TTB officer will return it to the petitioner without prejudice to resubmission in perfected form. If the petition is perfected, TTB will decide whether to proceed with rulemaking under § 9.14 and will advise the petitioner in writing of that decision. If TTB decides to proceed with rulemaking, TTB will advise the petitioner of the date of receipt of the perfected petition. If TTB decides not to proceed with rulemaking, TTB will advise the petitioner of the reasons for that decision.

(c) *Notice of pending petition.* When a perfected petition is accepted for rulemaking, TTB will place a notice to that effect on the TTB Web site.

§ 9.14 AVA rulemaking process.

(a) *Notice of proposed rulemaking.* If TTB determines that rulemaking in response to a petition is appropriate, TTB will prepare and publish a notice of proposed rulemaking (NPRM) in the **Federal Register** to solicit public comments on the petitioned-for AVA action.

(b) *Final action.* Following the close of the NPRM comment period, TTB will review any submitted comments and any other available relevant information and will take one of the following actions:

(1) Prepare a final rule for publication in the **Federal Register** adopting the proposed AVA action, with or without changes;

(2) Prepare a notice for publication in the **Federal Register** withdrawing the proposal and setting forth the reasons for the withdrawal. Reasons for withdrawal of a proposal must include at least one of the following:

(i) The extent of viticulture within the proposed boundary is not sufficient to constitute a grape-growing region as specified in § 9.11(a); or

(ii) The name, boundary, or distinguishing features evidence does not meet the standards for such evidence set forth in § 9.12; or

(iii) The petitioned-for action would be inconsistent with one of the purposes of the Federal Alcohol Administration Act or any other Federal statute or regulation or would be otherwise contrary to the public interest;

(3) Prepare a new NPRM for publication in the **Federal Register** setting forth a modified AVA action for public comment; or

(4) Take any other action deemed appropriate by TTB.

§ 9.22 [Amended]

7. Section 9.22 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Augusta’ is a term of viticultural significance.’’

§ 9.23 [Amended]

8. Section 9.23 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Napa’ and ‘Napa Valley’ are terms of viticultural significance.’’

§ 9.24 [Amended]

9. Section 9.24 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Chalone’ is a term of viticultural significance.’’

§ 9.25 [Amended]

10. Section 9.25 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘San Pasqual’ and ‘San Pasqual Valley’ are terms of viticultural significance.’’

§ 9.26 [Amended]

11. Section 9.26 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Guenoc’ and ‘Guenoc Valley’ are terms of viticultural significance.’’

§ 9.27 [Amended]

12. Section 9.27 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Lime Kiln Valley’ is a term of viticultural significance.’’

§ 9.28 [Amended]

13. Section 9.28 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Santa Maria Valley’ is a term of viticultural significance.’’

§ 9.29 [Amended]

14. Section 9.29 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Sonoma’ and ‘Sonoma Valley’ are terms of viticultural significance.’’

§ 9.30 [Amended]

15. Section 9.30 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘North Coast’ is a term of viticultural significance.’’

§ 9.31 [Amended]

16. Section 9.31 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Santa Cruz’ and ‘Santa Cruz Mountains’ are terms of viticultural significance.’’

§ 9.32 [Amended]

17. Section 9.32 is amended by revising the sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Carneros’ and ‘Los Carneros’ are terms of viticultural significance.’’

§ 9.33 [Amended]

18. Section 9.33 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Fennville’ is a term of viticultural significance.’’

§ 9.34 [Amended]

19. Section 9.34 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Finger Lakes’ is a term of viticultural significance.’’

§ 9.35 [Amended]

20. Section 9.35 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘Edna Valley’ is a term of viticultural significance.’’

§ 9.36 [Amended]

21. Section 9.36 is amended by adding a sentence at the end of paragraph (a) to read as follows: ‘‘For purposes of part 4 of this chapter, ‘McDowell Valley’ is a term of viticultural significance.’’

§ 9.37 [Amended]

22. Section 9.37 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Shenandoah', 'Shenandoah Valley', and 'California Shenandoah Valley' are terms of viticultural significance.''

§ 9.38 [Amended]

23. Section 9.38 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Cienega' and 'Cienega Valley' are terms of viticultural significance.''

§ 9.39 [Amended]

24. Section 9.39 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Paicines' is a term of viticultural significance.''

§ 9.40 [Amended]

25. Section 9.40 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Leelanau' and 'Leelanau Peninsula' are terms of viticultural significance.''

§ 9.41 [Amended]

26. Section 9.41 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Lancaster Valley' is a term of viticultural significance.''

§ 9.42 [Amended]

27. Section 9.42 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Cole Ranch' is a term of viticultural significance.''

§ 9.43 [Amended]

28. Section 9.43 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Rocky Knob' is a term of viticultural significance.''

§ 9.44 [Amended]

29. Section 9.44 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Solano County Green Valley' is a term of viticultural significance.''

§ 9.45 [Amended]

30. Section 9.45 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Suisun Valley' is a term of viticultural significance.''

§ 9.46 [Amended]

31. Section 9.46 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Livermore Valley' is a term of viticultural significance.''

§ 9.47 [Amended]

32. Section 9.47 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Hudson River' and 'Hudson River Region' are terms of viticultural significance.''

§ 9.48 [Amended]

33. Section 9.48 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Monticello' is a term of viticultural significance.''

§ 9.49 [Amended]

34. Section 9.49 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Delaware Valley' and 'Central Delaware Valley' are terms of viticultural significance.''

§ 9.50 [Amended]

35. Section 9.50 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Temecula' and 'Temecula Valley' are terms of viticultural significance.''

§ 9.51 [Amended]

36. Section 9.51 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Isle St. George' is a term of viticultural significance.''

§ 9.52 [Amended]

37. Section 9.52 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Chalk Hill' is a term of viticultural significance.''

§ 9.53 [Amended]

38. Section 9.53 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Alexander Valley' is a term of viticultural significance.''

§ 9.54 [Amended]

39. Section 9.54 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Santa Ynez' and 'Santa Ynez Valley' are terms of viticultural significance.''

§ 9.55 [Amended]

40. Section 9.55 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Bell Mountain' is a term of viticultural significance.''

§ 9.56 [Amended]

41. Section 9.56 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'San Lucas' is a term of viticultural significance.''

§ 9.57 [Amended]

42. Section 9.57 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sonoma', 'Sonoma County', and 'Sonoma County Green Valley' are terms of viticultural significance.''

§ 9.58 [Amended]

43. Section 9.58 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Carmel Valley' is a term of viticultural significance.''

§ 9.59 [Amended]

44. Section 9.59 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Arroyo Seco' is a term of viticultural significance.''

§ 9.60 [Amended]

45. Section 9.60 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Shenandoah' and 'Shenandoah Valley' are terms of viticultural significance.''

§ 9.61 [Amended]

46. Section 9.61 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'El Dorado' is a term of viticultural significance.''

§ 9.62 [Amended]

47. Section 9.62 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter,

'Loramie Creek' is a term of viticultural significance.''

§ 9.63 [Amended]

48. Section 9.63 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Linganore' is a term of viticultural significance.''

§ 9.64 [Amended]

49. Section 9.64 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Dry Creek' and 'Dry Creek Valley' are terms of viticultural significance.''

§ 9.65 [Amended]

50. Section 9.65 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'North Fork of Roanoke' is a term of viticultural significance.''

§ 9.66 [Amended]

51. Section 9.66 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Russian River' and 'Russian River Valley' are terms of viticultural significance.''

§ 9.67 [Amended]

52. Section 9.67 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Catoctin' is a term of viticultural significance.''

§ 9.68 [Amended]

53. Section 9.68 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Merritt Island' is a term of viticultural significance.''

§ 9.69 [Amended]

54. Section 9.69 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yakima' and 'Yakima Valley' are terms of viticultural significance.''

§ 9.70 [Amended]

55. Section 9.70 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sonoma' and 'Northern Sonoma' are terms of viticultural significance.''

§ 9.71 [Amended]

56. Section 9.71 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Hermann' is a term of viticultural significance.''

§ 9.72 [Amended]

57. Section 9.72 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Southeastern New England' is a term of viticultural significance.''

§ 9.73 [Amended]

58. Section 9.73 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Martha's Vineyard' is a term of viticultural significance.''

§ 9.74 [Amended]

59. Section 9.74 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Columbia Valley' is a term of viticultural significance.''

§ 9.75 [Amended]

60. Section 9.75 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Central Coast' is a term of viticultural significance.''

§ 9.76 [Amended]

61. Section 9.76 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Knights Valley' is a term of viticultural significance.''

§ 9.77 [Amended]

62. Section 9.77 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Altus' is a term of viticultural significance.''

§ 9.78 [Amended]

63. Section 9.78 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Ohio River' and 'Ohio River Valley' are terms of viticultural significance.''

§ 9.79 [Amended]

64. Section 9.79 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Lake Michigan' and 'Lake Michigan Shore' are terms of viticultural significance.''

§ 9.80 [Amended]

65. Section 9.80 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'York Mountain' is a term of viticultural significance.''

§ 9.81 [Amended]

66. Section 9.81 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Fiddletown' is a term of viticultural significance.''

§ 9.82 [Amended]

67. Section 9.82 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Potter Valley' is a term of viticultural significance.''

§ 9.83 [Amended]

68. Section 9.83 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Lake Erie' is a term of viticultural significance.''

§ 9.84 [Amended]

69. Section 9.84 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Paso Robles'' is a term of viticultural significance.''

§ 9.85 [Amended]

70. Section 9.85 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Willow Creek' is a term of viticultural significance.''

§ 9.86 [Amended]

71. Section 9.86 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Anderson Valley' is a term of viticultural significance.''

§ 9.87 [Amended]

72. Section 9.87 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Grand River Valley' is a term of viticultural significance.''

§ 9.88 [Amended]

73. Section 9.88 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Pacheco Pass' is a term of viticultural significance.''

§ 9.89 [Amended]

74. Section 9.89 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Umpqua' and 'Umpqua Valley' are terms of viticultural significance.''

§ 9.90 [Amended]

75. Section 9.90 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Willamette' and 'Willamette Valley' are terms of viticultural significance.''

§ 9.91 [Amended]

76. Section 9.91 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Walla Walla' and 'Walla Walla Valley' are terms of viticultural significance.''

§ 9.92 [Amended]

77. Section 9.92 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Madera' is a term of viticultural significance.''

§ 9.93 [Amended]

78. Section 9.93 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mendocino' is a term of viticultural significance.''

§ 9.94 [Amended]

79. Section 9.94 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Howell Mountain' is a term of viticultural significance.''

§ 9.95 [Amended]

80. Section 9.95 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Clarksburg' is a term of viticultural significance.''

§ 9.96 [Amended]

81. Section 9.96 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mississippi Delta' is a term of viticultural significance.''

§ 9.97 [Amended]

82. Section 9.97 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sonoita' is a term of viticultural significance.''

§ 9.98 [Amended]

83. Section 9.98 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Monterey' is a term of viticultural significance.''

§ 9.99 [Amended]

84. Section 9.99 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Clear Lake' is a term of viticultural significance.''

§ 9.100 [Amended]

85. Section 9.100 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mesilla' and 'Mesilla Valley' are terms of viticultural significance.''

§ 9.101 [Amended]

86. Section 9.101 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'The Hamptons', 'Long Island', and 'The Hamptons, Long Island' are terms of viticultural significance.''

§ 9.102 [Amended]

87. Section 9.102 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sonoma' and 'Sonoma Mountain' are terms of viticultural significance.''

§ 9.103 [Amended]

88. Section 9.103 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mimbres Valley' is a term of viticultural significance.''

§ 9.104 [Amended]

89. Section 9.104 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'South Coast' is a term of viticultural significance.''

§ 9.105 [Amended]

90. Section 9.105 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Cumberland Valley' is a term of viticultural significance.''

§ 9.106 [Amended]

91. Section 9.106 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yuba' and 'North Yuba' are terms of viticultural significance.''

§ 9.107 [Amended]

92. Section 9.107 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Lodi' is a term of viticultural significance.''

§ 9.108 [Amended]

93. Section 9.108 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Ozark Mountain' is a term of viticultural significance.''

§ 9.109 [Amended]

94. Section 9.109 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'George Washington Birthplace' and 'Northern Neck George Washington Birthplace' are terms of viticultural significance.''

§ 9.110 [Amended]

95. Section 9.110 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'San Benito' is a term of viticultural significance.''

§ 9.111 [Amended]

96. Section 9.111 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Kanawha', 'Kanawha River', and 'Kanawha River Valley' are terms of viticultural significance.''

§ 9.112 [Amended]

97. Section 9.112 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Arkansas Mountain' is a term of viticultural significance.''

§ 9.113 [Amended]

98. Section 9.113 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Long Island' and 'North Fork of Long Island' are terms of viticultural significance.''

§ 9.114 [Amended]

99. Section 9.114 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Old Mission Peninsula' is a term of viticultural significance.''

§ 9.115 [Amended]

100. Section 9.115 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Ozark Highlands' is a term of viticultural significance.''

§ 9.116 [Amended]

101. Section 9.116 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sonoma' and 'Sonoma Coast' are terms of viticultural significance.''

§ 9.117 [Amended]

102. Section 9.117 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Stags Leap District' is a term of viticultural significance.''

§ 9.118 [Amended]

103. Section 9.118 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Ben Lomond Mountain' is a term of viticultural significance.''

§ 9.119 [Amended]

104. Section 9.119 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Rio Grande', 'Rio Grande Valley', and 'Middle Rio Grande Valley' are terms of viticultural significance.''

§ 9.120 [Amended]

105. Section 9.120 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Sierra Foothills' is a term of viticultural significance.''

§ 9.121 [Amended]

106. Section 9.121 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Warren Hills' is a term of viticultural significance.''

§ 9.122 [Amended]

107. Section 9.122 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Connecticut Highlands' and 'Western Connecticut Highlands' are terms of viticultural significance.''

§ 9.123 [Amended]

108. Section 9.123 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mt. Veeder' is a term of viticultural significance.''

§ 9.124 [Amended]

109. Section 9.124 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Wild Horse Valley' is a term of viticultural significance.''

§ 9.125 [Amended]

110. Section 9.125 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Texas Hill Country' and 'Fredericksburg in the Texas Hill Country' are terms of viticultural significance.''

§ 9.126 [Amended]

111. Section 9.126 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Santa Clara Valley' is a term of viticultural significance.''

§ 9.127 [Amended]

112. Section 9.127 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Cayuga' and 'Cayuga Lake' are terms of viticultural significance.''

§ 9.128 [Amended]

113. Section 9.128 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Seneca Lake' is a term of viticultural significance.''

§ 9.129 [Amended]

114. Section 9.129 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Arroyo', 'Arroyo Grande', and 'Arroyo Grande Valley' are terms of viticultural significance.''

§ 9.130 [Amended]

115. Section 9.130 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'San Ysidro District' is a term of viticultural significance.''

§ 9.131 [Amended]

116. Section 9.131 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mt. Harlan' is a term of viticultural significance.''

§ 9.132 [Amended]

117. Section 9.132 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Rogue Valley' is a term of viticultural significance.''

§ 9.133 [Amended]

118. Section 9.133 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Rutherford' is a term of viticultural significance.''

§ 9.134 [Amended]

119. Section 9.134 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Oakville' is a term of viticultural significance.''

§ 9.135 [Amended]

120. Section 9.135 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Virginia's Eastern Shore' is a term of viticultural significance.''

§ 9.136 [Amended]

121. Section 9.136 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Texas Hill' and 'Texas Hill Country' are terms of viticultural significance.''

§ 9.137 [Amended]

122. Section 9.137 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Grand Valley' is a term of viticultural significance.''

§ 9.138 [Amended]

123. Section 9.138 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Benmore Valley' is a term of viticultural significance.''

§ 9.139 [Amended]

124. Section 9.139 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Santa Lucia' and 'Santa Lucia Highlands' are terms of viticultural significance.''

§ 9.140 [Amended]

125. Section 9.140 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Atlas Peak' is a term of viticultural significance.''

§ 9.141 [Amended]

126. Section 9.141 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Escondido' and 'Escondido Valley' are terms of viticultural significance.''

§ 9.142 [Amended]

127. Section 9.142 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Bennett Valley' is a term of viticultural significance.''

§ 9.143 [Amended]

128. Section 9.143 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Spring Mountain District' is a term of viticultural significance.''

§ 9.144 [Amended]

129. Section 9.144 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Texas High Plains' is a term of viticultural significance.''

§ 9.145 [Amended]

130. Section 9.145 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Dunnigan Hills' is a term of viticultural significance.''

§ 9.146 [Amended]

131. Section 9.146 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Lake Wisconsin' is a term of viticultural significance.''

§ 9.147 [Amended]

132. Section 9.147 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Hames Valley' is a term of viticultural significance.''

§ 9.148 [Amended]

133. Section 9.148 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Seiad' and 'Seiad Valley' are terms of viticultural significance.''

§ 9.149 [Amended]

134. Section 9.149 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'St. Helena' is a term of viticultural significance.''

§ 9.150 [Amended]

135. Section 9.150 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Cucamonga' and 'Cucamonga Valley' are terms of viticultural significance.''

§ 9.151 [Amended]

136. Section 9.151 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Puget Sound' is a term of viticultural significance.''

§ 9.152 [Amended]

137. Section 9.152 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Malibu', 'Newton Canyon', and 'Malibu-Newton Canyon' are terms of viticultural significance.''

§ 9.153 [Amended]

138. Section 9.153 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Redwood Valley' is a term of viticultural significance.''

§ 9.154 [Amended]

139. Section 9.154 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Chiles Valley' is a term of viticultural significance.''

§ 9.155 [Amended]

140. Section 9.155 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Texas Davis Mountains' is a term of viticultural significance.''

§ 9.156 [Amended]

141. Section 9.156 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Diablo Grande' is a term of viticultural significance.''

§ 9.157 [Amended]

142. Section 9.157 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'San Francisco Bay' is a term of viticultural significance.''

§ 9.158 [Amended]

143. Section 9.158 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Mendocino Ridge' is a term of viticultural significance.''

§ 9.159 [Amended]

144. Section 9.159 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yorkville Highlands' is a term of viticultural significance.''

§ 9.160 [Amended]

145. Section 9.160 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yountville' is a term of viticultural significance.''

§ 9.161 [Amended]

146. Section 9.161 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Oak Knoll District', 'Napa Valley', and 'Oak Knoll District of Napa Valley' are terms of viticultural significance.''

§ 9.163 [Amended]

147. Section 9.163 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Salado Creek' is a term of viticultural significance.''

§ 9.164 [Amended]

148. Section 9.164 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'River Junction' is a term of viticultural significance.''

§ 9.165 [Amended]

149. Section 9.165 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Applegate Valley' is a term of viticultural significance.''

§ 9.166 [Amended]

150. Section 9.166 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Diamond Mountain District' is a term of viticultural significance.''

§ 9.167 [Amended]

151. Section 9.167 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Red Mountain' is a term of viticultural significance.''

§ 9.168 [Amended]

152. Section 9.168 is amended by adding a sentence at the end of

paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Fair Play' is a term of viticultural significance.''

§ 9.169 [Amended]

153. Section 9.169 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Red Hills of Lake County' and 'Red Hills Lake County' are terms of viticultural significance.''

§ 9.170 [Amended]

154. Section 9.170 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Long Island' is a term of viticultural significance.''

§ 9.171 [Amended]

155. Section 9.171 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'San Bernabe' is a term of viticultural significance.''

§ 9.172 [Amended]

156. Section 9.172 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'West Elks' is a term of viticultural significance.''

§ 9.173 [Amended]

157. Section 9.173 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Rockpile' is a term of viticultural significance.''

§ 9.174 [Amended]

158. Section 9.174 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yadkin' and 'Yadkin Valley' are terms of viticultural significance.''

§ 9.176 [Amended]

159. Section 9.176 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Capay' and 'Capay Valley' are terms of viticultural significance.''

§ 9.177 [Amended]

160. Section 9.177 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Alexandria Lakes' is a term of viticultural significance.''

§ 9.178 [Amended]

161. Section 9.178 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Columbia Gorge' is a term of viticultural significance.''

§ 9.179 [Amended]

162. Section 9.179 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Southern Oregon' is a term of viticultural significance.''

§ 9.180 [Amended]

163. Section 9.180 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Dundee' and 'Dundee Hills' are terms of viticultural significance.''

§ 9.181 [Amended]

164. Section 9.181 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'McMinnville' is a term of viticultural significance.''

§ 9.182 [Amended]

165. Section 9.182 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Ribbon Ridge' is a term of viticultural significance.''

§ 9.183 [Amended]

166. Section 9.183 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Yamhill-Carlton District' is a term of viticultural significance.''

§ 9.184 [Amended]

167. Section 9.184 is amended by adding a sentence at the end of paragraph (a) to read as follows: ''For purposes of part 4 of this chapter, 'Trinity Lakes'' is a term of viticultural significance.''

PART 70—PROCEDURE AND ADMINISTRATION

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

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§ 70.701 [Amended]

169. Section 70.701 is amended by adding a sentence at the end of paragraph (c) to read as follows: ''A petition to establish a new American viticultural area or to modify an existing American viticultural area is subject to the rules in part 9 of this chapter.''

Signed: October 18, 2007.

John J. Manfreda,

Administrator.

Approved: November 7, 2007.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E7–22717 Filed 11–19–07; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0064]

RIN 1625–AA00

Safety Zone: City of West Haven Fireworks, Bradley Point, West Haven, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the permanent safety zone for the City of West Haven Fireworks by establishing the zone around a fireworks launch site at the approximate position 41°15′7″ N, 72°57′26″ W. This change to the zone would allow the zone to be established around the launch site, whether it is on a barge or on shore. Establishment of this safety zone is necessary to protect recreational vessel traffic, spectators, and those operating the fireworks display.

DATES: Comments and related material must reach the Coast Guard on or before January 22, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2007–0064 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: *http://www.regulations.gov.*

(2) Mail: Docket Management Facility (M–30), U.S. Department of

Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) Hand delivery: Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) Fax: 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Douglas Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2007–0064), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, please submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time, click on ''Search for Dockets,'' and enter the docket number for this rulemaking (USCG–2007–0064) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to Coast Guard Sector Long Island Sound at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The City of West Haven, Connecticut, holds an annual fireworks display off of Bradley Point in New Haven harbor. To protect the maritime public from the hazards associated with the fireworks display, a permanent safety zone was established and the regulation is currently is found at 33 CFR 165.151(a)(5). The regulation states that all the waters of New Haven Harbor within a 1200-foot radius of the fireworks barge, at the approximate position 41°15′7″ N, 72°57′26″ W, be included in the regulated area. The event organizers have determined that at times the fireworks may need to be launched from a site on land rather than only from a barge. The new regulation would include all the waters of New Haven Harbor within a 1200-foot radius of the fireworks launch site, at the approximate position 41°15′7″ N, 72°57′26″ W. This change to the permanent safety zone would cover those instances when the fireworks are launched from land or a barge as opposed to only being launched from a barge.

Discussion of Proposed Rule

The Coast Guard proposes to amend the regulation at 33 CFR 165.151(a)(5) to replace the word ''barge'' with the word ''site''. This change would allow the safety zone to be established upon the navigable waters in a 1200-foot radius of the fireworks launch site, whether it is from a barge or from land. The establishment of this safety zone around either launch site is necessary to protect the maritime public, spectators and fireworks technicians from the hazards associated with the fireworks display by keeping all vessels and persons outside of the safety zone unless they have authorization from the Captain of the Port, Long Island Sound.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: The zone would only be enforced for a temporary period on the day of the event and vessels may transit in all areas around the zone at all times.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owner or operators of vessels intending to transit or anchor in the vicinity of Bradley Point on the day of the event.

For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Douglas Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191 and 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.151 by revising paragraph (a)(5) to read as follows:

§ 165.151 Safety Zones; Long Island Sound annual fireworks displays.

(a) * * *

(5) City of West Haven Fireworks Safety Zone. All waters of New Haven Harbor on Long Island Sound off Bradley Point within a 1200-foot radius of the fireworks launch site in

approximate position 41°15′7″ N, 72°57′26″ W.

* * * * *

Dated: October 25, 2007.

D.A. Ronan,

Captain, U.S. Coast GuardCaptain of the Port, Long Island Sound.

[FR Doc. E7–22613 Filed 11–19–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD53

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior

ACTION: Proposed rule.

SUMMARY: The National Park Service is proposing this rule to provide for the protection of the Western Snowy Plover (Charadrius alexandrinus nivosus), a species listed as threatened under the Endangered Species Act. Western Snowy Plovers overwinter within Golden Gate National Recreation Area (GGNRA) at both Crissy Field and Ocean Beach. This rulemaking will provide temporary protection for two areas until a permanent determination is made through the planning process for the entire park. The park is developing a Dog Management Plan/Environmental Impact Statement (EIS) and special regulations for dog management at GGNRA is expected to be completed by winter 2009.

DATES: Comments must be received by January 22, 2008.

ADDRESSES: You may submit comments, identified by the number RIN 1024–AD53, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—Mail or hand delivery to Superintendent, Golden Gate National Recreation Area, Fort Mason, Building 201, San Francisco, CA 94123. Attention: Snowy Plover Protection Rule.

FOR FURTHER INFORMATION CONTACT: Brian O'Neill, General Superintendent, Golden Gate National Recreation Area, Fort Mason, Building 201, San Francisco, CA 94123. (415) 561–4728.

SUPPLEMENTARY INFORMATION:

Background

In November 2006 and July 2007, Golden Gate National Recreation Area (GGNRA) adopted emergency regulatory provisions under 36 CFR 1.5, requiring all dogs to be on-leash on a portion of Crissy Field designated as the Wildlife Protection Area (WPA) and on a portion of Ocean Beach designated as the Snowy Plover Protection Area (SPPA). The emergency restrictions in these two areas were established for the protection of the federally listed Western Snowy Plover. These emergency restrictions are temporary and necessary until the completion of this rulemaking.

The Western Snowy Plover was listed as a threatened species under the Endangered Species Act (''Act'') in 1993. The plover's listing was due, in part, to significant declines in population numbers and distribution attributed to habitat loss and increased predation resulting from human disturbance and development. Among other things, the plover's threatened status affords it protection from harassment. The regulations that implement the Act define ''harass'' as ''an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering.''

Snowy Plovers weigh less than two ounces and because of their small size, cryptic habits, and coloration, are hard to see with the untrained eye. Plovers feed on invertebrates found in the wet sand, amongst surf-cast kelp and debris within the intertidal zone, and in dry sandy areas or amidst low foredune vegetation above the high tide line. When resting, Snowy Plovers usually take shelter in footprints, vehicle tracks, or the lee of kelp, driftwood or sparsely vegetated low foredunes on the widest areas of beaches. Snowy Plovers are particular in their habitat choices; they need to rest and feed on wide, flat, open beaches where they can see potential predators approaching. These conditions are found at Crissy Field and Ocean Beach. Snowy plovers do not nest in the park; they overwinter in the park from approximately July through April. During the overwintering period, Snowy Plovers rest and feed to gather reserves necessary to successfully breed at other more suitable nesting locations up and down the Pacific coast.

Snowy Plovers continue to be threatened by degradation and loss of breeding and wintering habitat caused by expanding beach-front development, encroachment of introduced European beachgrass (Ammophila arenaria), and intense recreational use of beaches. Poor reproductive success is frequently the result of human disturbance, predation, or inclement weather, These factors, combined with habitat loss, led to the overall decline in active nesting colonies and breeding and wintering populations along the Pacific coast, and prompted its federal listing as a threatened species in 1993.

Snowy Plover monitoring data from the 2006–2007 overwintering season was analyzed by the NPS and compiled in an addendum to the November 2006 report, (''Addendum: 2006 Plover Monitoring'', dated June 29, 2007). Data from 2006–2007 overwintering season confirmed that even though the emergency restrictions reduced the numbers of off leash dogs, there were still high numbers of off leash dogs and dogs chasing shorebirds during the 2006–2007 overwintering season constituting an ongoing threat to Western Snowy Plovers. Increased enforcement of the restrictions during the 2007–2008 season would help to reduce this threat.

Description of the Golden Gate National Recreation Area

GGNRA was established in 1972. The lands that constitute GGNRA extend north of the Golden Gate Bridge (the entrance to the San Francisco and San Pablo Bays) to Tomales Bay in Marin County, and south to the San Francisco watersheds and beyond in San Mateo County. The park's legislated boundary encompasses nearly 80,000 acres of land and water, including 59 miles of bay and ocean shoreline. The GGNRA directly manages approximately 16,000 acres in Marin, San Francisco and San Mateo counties. These lands represent one of the nation's largest coastal preserves and attract 16 million visitors each year, making GGNRA one of the most heavily visited units in the National Park System.

The lands encompassing GGNRA provide important habitat for many federally threatened or endangered species, as well as many other State listed and rare species. The central coast, including the San Francisco Bay Area and GGNRA, is considered one of North America's biodiversity hot spots (*Precious Heritage: the Status of Biodiversity in the United States, Nature Conservancy*). The California Floristic Province, which includes all of GGNRA, is identified as one of the top 25 global biodiversity hotspots in the world (*Nature's Place: Population and the Future of Diversity, 2000 Report by Population Action International*). GGNRA is part of the Golden Gate Biosphere Reserve, designated in 1989 in recognition of the importance of this coastal and marine ecosystem to the conservation of biodiversity, sustainable development, research and education.

Purposes of Golden Gate National Recreation Area

GGNRA was created from a vision to promote the enjoyment of the natural and cultural resources on the edge of urban San Francisco Bay Area communities while preserving those resources for the future. The vast natural resources that existed in the bay estuary and its environs before 1800 had, by the 1960s, been reduced to minute remnants, some of which were protected in a handful of national, state and local parks and open space. Congress recognized that the lands, now included within GGNRA, presented a unique opportunity to preserve some of the last remnants of once abundant flora and fauna.

The 1972 legislation that established GGNRA, Public Law 92–589, set forth the park's mission as follows:

In order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Golden Gate National Recreation Area (hereinafter referred to as the ''recreation area'') is hereby established. In the management of the recreation area, the Secretary of Interior (hereinafter referred to as the ''Secretary'') shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of this Act, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.

In addition, the 1972 legislation required GGNRA to manage the park in accordance with the National Park Service Organic Act of 1916 (Organic Act) (16 U.S.C. Section 1 *et seq.*) The Organic Act requires the National Park Service to:

*Promote and regulate the use of the federal areas known as national parks, monuments, and reservations hereinafter specified * * * by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.*

The National Park Service has promulgated policies that amplify the meaning of the Organic Act. These policies, referred to as the *2006 Management Policies,* provide mandatory guidance for all national parks. With regard to the protection of threatened and endangered species, the *2006 Management Policies* require the NPS to ''fully meet its obligations under the NPS Organic Act and the Endangered Species Act to both proactively conserve listed species and prevent detrimental effects on these species.'' One of the means to achieve these goals is the management of detrimental visitor use that may be negatively affecting listed species (*2006 Management Policies* 4.4.2.3).

Authority and Jurisdiction

Under the Organic Act, Congress granted the NPS broad authority to regulate the use of the federal areas known as national parks. In addition, the Organic Act authorizes the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *.'' *(16 U.S.C. 3).*

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *.''

The NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters, is based upon the Property Clause and, as with the United States Coast Guard's authority, Commerce Clause of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *.'' *(16 U.S.C. 1a–2*(h)).

In 1996, the NPS published a final rule (61 FR 35136 (July 5, 1996)) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within National Park System boundaries occurring on waters and tidelands subject to the jurisdiction of the United States.

Through the authority stated above, the NPS exercises legal jurisdiction over NPS waters offshore Ocean Beach and Crissy Field. The park's legislated boundary includes all waters to ¼ mile (1,320 feet) offshore at Ocean Beach and Crissy Field. In addition, the NPS has a lease with the State of California-State Lands Commission which provides NPS with the authority to manage tide and submerged lands to 1,000 feet offshore. The United States' jurisdiction over offshore areas at Crissy Field is further augmented by the fact that the United States holds title to the tide and submerged lands at Crissy Field extending 300 yards below low water.

Regulation of Dog Walking at Crissy Field and Ocean Beach

Dogs, including off-leash dogs, have been present on Ocean Beach and Crissy Field for many years. From approximately 1979 to the late 1990s, GGNRA allowed dogs to be off-leash in certain areas of the park under ''voice control.'' In all other areas of the park and the national park system, dogs were required to be leashed in accordance with the general regulation found at 36 CFR 2.15(a) or they were excluded altogether.

In 2002, GGNRA required dogs to be on-leash throughout all areas of the park where dogs were allowed. This leash requirement was enforced for several years until it was challenged in federal court in 2004.

The legal action resulted in a magistrate's ruling in 2004 that was then affirmed by the U.S. District Court for the Northern District of California in June, 2005. That ruling found that GGNRA had not followed the proper procedures in adopting the 2002 leash requirement, and required GGNRA to reinstate ''voice control'' for dogs in those areas of the park where it had been allowed in the past. (*U.S.* v. *Barley,* CR–04–0408–WHA (N.D. Cal. 2005)). As a result of this ruling, off-leash, ''voice-control'' dog walking was reinstated in a number of locations, including Crissy Field and Ocean Beach. The ruling, however, did not restrict GGNRA's authority to protect park resources, including threatened and endangered species.

For more than 100 years, Crissy Field was part of the U.S. Army base at the Presidio. Crissy Field was used as an Army maintenance and operational area and numerous buildings and facilities lined the shore. The U.S. Army transferred complete administrative jurisdiction over Crissy Field to the National Park Service in 1993. Between 1998 and 2000, GGNRA restored a 100-acre portion of Crissy Field according to plans developed and analyzed through the Crissy Field Plan Environmental Assessment (EA) (Jones and Stokes 1996) and Finding of No Significant

Impact (FONSI). The transformation of Crissy Field included restoration of coastal dunes, removal of rubble on the beach, development of new trails and a restored airfield, and construction of a 20-acre tidal marsh. The Crissy Field Plan EA/FONSI addressed dog walking and recommended designating areas for off-leash dog walking, for on-leash dog walking, and a portion of Crissy Field (the tidal marsh, the overlooks on the boardwalk crossing the marsh, and the fenced dune areas) would be closed to dogs. The dog restrictions from the EA/FONSI were adopted by the Superintendent and included in the GGNRA compendium starting in 2000.

Ocean Beach is the longest stretch of sandy beach between Point Reyes National Seashore and Half Moon Bay. The federally threatened Snowy Plover resides on portions of the beach for 10 months of the year. The draft Snowy Plover Management Plan (GGNRA 1998) recommended that dogs be on-leash in what was referred to as a Snowy Plover Protection Area (SPPA), extending from Stairwell 21 to Sloat Boulevard on Ocean Beach. From 1997 until December 2004, dogs were required to be leashed within the Ocean Beach SPPA, and the requirement was included in the GGNRA compendium.

Snowy Plover Monitoring

Western Snow Plovers have over-wintered on Ocean Beach since at least as far back as the 1980s, and sightings have occurred on Crissy Field since the winter of 2002. GGNRA has regularly monitored Snowy Plovers at Ocean Beach since 1994 and began formal monitoring of Snowy Plovers at Crissy Field in February 2005.

Data accumulated by GGNRA regarding the effects of dogs on Snowy Plovers is presented in the 2006 *Status Report: Western Snowy Plovers—Recent Changes in Human and Dog Use within the Snowy Plover Protection Area at Ocean Beach and the Wildlife Protection Area at Crissy Field* (''Report''). In the report, monitoring data from the Ocean Beach SPPA and the Crissy Field WPA documents recent increases in the number of off-leash dogs using these areas. Along with this increase in the number of off-leash dogs, there has been an increase in the number of instances of dogs chasing or flushing Western Snowy Plovers or other shorebirds. In February and March of 2006, dogs were observed chasing or flushing Western Snowy Plovers on four occasions, disturbing a total of 22 plovers, in the Ocean Beach SPPA. In the Crissy Field WPA, dogs were observed chasing or flushing more than 6 plovers over the course of four surveys in July and August of 2006.

The report also describes the adverse biological effects plovers experience when flushed or chased and concluded that these effects present a serious threat to the Western Snowy Plover.

Emergency Regulatory Provisions Adopted in 2006

In response to the monitoring findings that off-leash dog walking at Ocean Beach and Crissy Field was harassing and disturbing snowy plovers and that this activity presented a serious threat to the GGNRA's overwintering snowy plover population, the GGNRA Superintendent implemented emergency restrictions requiring visitors to leash their dogs in the designated areas of Ocean Beach and Crissy Field during the 2006–2007 overwintering season and re-implemented on July 1, 2007, for the 2007–2008 overwintering season. The emergency restrictions provided as follows:

- *Ocean Beach:* Dog-walking restricted to on-leash only at Ocean Beach, Stairwell 21 to Sloat Boulevard, including all tidelands. The definition of on-leash use requires that dogs must be restrained on a leash which shall not exceed six feet in length.
- *Crissy Field:* Dog-walking restricted to on-leash only in the Crissy Field Wildlife Protection Area which encompasses: From the west, starting at Fort Point Mine Depot (a.k.a. Torpedo Wharf) eastward to concrete riprap, which lies approximately 700 feet east of former Coast Guard Station, and includes all uplands and all tidelands and extends from the high-water mark to 100 yards off shore.

The emergency provisions would remain in effect until the end of the overwintering period, as determined through monitoring. The emergency provisions did not eliminate the opportunity for off-leash dog walking at Ocean Beach and Crissy Field outside of the designated Snowy Plover protection areas. At Crissy Field, dog walking options on the beach provide .99 miles of dog walking off-leash and .32 miles of dog walking on-leash, in addition to off-leash dog walking availability on the Crissy Field airfield and promenade. At Ocean Beach and the beach at Fort Funston, which lies just to the south of Ocean Beach, visitors have access to 2.4 miles of beach area for off-leash dog walking and 2.2 miles for on-leash dog walking.

Need for Action

The emergency regulatory provisions implemented by GGNRA in 2006 and 2007 are temporary. This rulemaking is needed to provide an interim solution developed with public participation for protecting the populations of Western Snowy Plovers that overwinter on Crissy Field and Ocean Beach until the negotiated rulemaking process is completed and a comprehensive special regulation for dog walking at GGNRA is adopted.

This proposed regulation would require dogs to be on a leash, not exceeding six feet in length, within the land and water areas designated as the Crissy Field WPA and the Ocean Beach SPPA. These areas will be included in the Superintendent's Compendium and will be published through the posting of signs and the availability of maps on the park's official Web site and other places convenient to the public. This activity restriction will be in effect annually, July 1 through approximately May 1, or until monitoring determines that the species is no longer present.

The proposed rule will only prohibit the activity of off-leash dog walking in these two areas, and the effects are offset by the availability of other areas nearby the Crissy Field WPA and the Ocean Beach SPPA for off-leash dog walking. Park visitors with dogs will still be allowed to use the Crissy Field WPA and the Ocean Beach SPPA provided that their dogs are leashed. This on-leash requirement will be a beneficial effect to visitors who come to this area to observe snowy plovers and a necessary measure for the protection and enhancement of the snowy plovers and their habitat.

The proposed rule will not adversely affect GGNRA's natural, scenic, or cultural resources. In particular, the regulation will enhance GGNRA's ability to protect the Snowy Plover by decreasing the disturbances caused by dogs. Protection of threatened species is consistent with the 2006 Management Policies. Protection of threatened species is in keeping with the objectives of the Crissy Field Plan EA/FONSI, and the draft Snowy Plover Management Plan, which called for a leash requirement in the Snowy Plover Protection Area. Finally, the proposed rule is consistent with the general regulation at 36 CFR 2.15(a), which requires dogs to be on-leash in national park units.

Compliance With Other Laws and Executive Orders

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Most of the areas proposed to be restricted through this rulemaking have been closed or restricted for the same activity through the park's compendium in the past, although those closures or restrictions were not published in the **Federal Register**. Since this is not a new closure or restriction, and because opportunities for off-leash dogwalking still exist in these areas, the proposed rule will not significantly affect the existing patterns of park users.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. GGNRA has received letters of concurrence for the emergency restrictions in these areas, and has begun informal concurrence with U.S. Fish and Wildlife Service. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(3) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rule are local in nature and negligible in scope. The primary purpose of this rule is to provide protection for a threatened species. The rule will require dogwalkers to leash their dogs when in specified areas. There will be no economic effect of this additional required action.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. This rule will only affect those who choose to walk their dogs in two designated areas.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no costs associated with the requirement to leash dogs in these two designated areas.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The primary purpose of this regulation is to provide additional protection for a threatened species and this rule will not change the ability of United States based enterprises to compete in any way.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. The restrictions under this regulation would not have a significant effect or impose an unfunded mandate on any agency or on the private sector. This rule applies only to Federal parkland administered by the National Park Service in GGNRA, and no costs will be incurred by any parties.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not apply to private property, or cause a compensable taking, there are no takings implications.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation will not have a substantial direct effect on the states, or on the distribution of power and responsibilities among the various levels of government. The rule addresses dog walking in two areas of the Golden Gate National Recreation Area. The affected lands are under the administrative jurisdiction of the National Park Service.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

National Environmental Policy Act

The Handbook for NPS Director's Order 12 contains a listing of Categorical Exclusions. Section 3.4 D(2) of the Director's Order 12 Handbook provides that ''minor changes in programs and regulations pertaining to visitor activities'' may be categorically excluded under NEPA. The proposed regulations for Ocean Beach and Crissy Field are actions that would result in minor changes to regulated visitor activities in these areas (transitioning seasonally from unleashed to leashed dog recreation). GGNRA has prepared all the appropriate Categorical Exclusion screening forms. These forms disclose that the adoption of these regulations would result in no measurable adverse environmental effects. Furthermore, no exceptional circumstances or conditions exist that would make use of a Categorical Exclusion inappropriate. As such, a Categorical Exclusion under NEPA is the appropriate form of NEPA compliance for these regulatory actions.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information: The primary authors of this proposed rule are

Marybeth G. McFarland, Law Enforcement Specialist; Christine Powell, Public Affairs Specialist; Shirwin Smith, Management Assistant; GOGA; Barbara Goodyear, Solicitor, PWRO; Jerry Case, Regulations Program Manager; and Mike Tiernan, Solicitor, WASO.

Public Participation: You may submit comments online at: *http://www.regulations.gov*. Follow the instructions for submitting comments. You may also mail or hand deliver comments to: Superintendent, Golden Gate National Recreation Area, Fort Mason, Building 201, San Francisco, California 94123, Attn: Snowy Plover Protection Rule.

Public Availability of Comments

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.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Add new paragraph (d) to § 7.97 to read as follows:

§ 7.97 Golden Gate National Recreation Area

* * * * *

(d) *Dogs—Crissy Field and Ocean Beach Snowy Plover Areas* (1) Dogs must be restrained on a leash not to exceed six feet in length during the Snowy Plover (Charadrius alexandrinus nivosus) overwintering season in the following areas:

(i) *Crissy Field Wildlife Protection Area (WPA):* Dogwalking restricted to on-leash only in the areas which encompass the shoreline and beach area north of the Crissy Field Promenade (excluding the paved parking area, sidewalks and grass lawn encompassing the Coast Guard Station complex) east of the Fort Point Mine Depot (a.k.a. Torpedo Wharf) to approximately 700 feet east of the former Coast Guard Station, and all tidelands and submerged lands to 100 yards offshore.

(ii) *Ocean Beach Snowy Plover Protection Area (SPPA):* Dog-walking restricted to on-leash only in the area which encompasses the shoreline and beach area west of the GGNRA boundary, between Stairwell 21 to Sloat Boulevard, including all tidelands and submerged lands to 1000 feet offshore.

(2) Notice of the overwintering season restrictions will be provided through the posting of signs at the site, on maps identifying the restricted areas on the park's official Web site and through maps made available at other places convenient to the public. This restriction will be in effect annually from July 1 until monitoring by the park determines that the species is no longer present.

Dated: September 7, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–22654 Filed 11–19–07; 8:45 am]

BILLING CODE 4312–FN–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 752

[EPA–HQ–OAR–2006–0605; FRL–8497–7]

RIN 2060–AO24

Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period on our proposed amendments for the Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) (September 21, 2007). The EPA is extending the comment period that originally ends on November 20, 2007. The extended comment period will close on January 21, 2008. The EPA is extending the comment period because of the timely requests we received to do so.

DATES: *Comments.* The comment period for the proposed rule published at 72 FR 54112, September 21, 2007, is extended. Comments must be received on or before January 21, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0605, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2006–0605, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, NW., Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2006–0605. 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–2006–0605. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

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 U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, 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 Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Raj Rao, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–5593, fax number (919) 541–5509; or electronic mail at *rao.raj@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. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2006–0605.

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- 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.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web (WWW). Following signature by the EPA Administrator, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr.*

Dated: November 14, 2007.

Robert J. Meyers,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. E7–22666 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–0638; FRL–8497–5]

Revisions to the California State Implementation Plan; San Joaquin Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from flare operations at facilities such as oil and chemical refineries. We are proposing to approve a local rule regulating these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by *December 20, 2007.*

ADDRESSES: Submit comments, identified by docket number [DOCKET NUMBER], by one of the following methods:

1. *Federal eRulemaking Portal: 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 *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 *www.regulations.gov* or e-mail. *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.

Docket: The index to the docket for this action is available electronically at *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: Jerald S. Wamsley, EPA Region IX, at either (415) 947–4111, or *wamsley.jerry@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''We'', ''Us'', and ''Our'' refer to the EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD	4311	Flares	06/15/06	12/29/06

On February 13, 2007, EPA found Rule 4311 met the completeness criteria in 40 CFR Part 51, Appendix V. SJVAPCD must meet these criteria before formal EPA review.

B. Are there other versions of this rule?

On February 26, 2003, EPA approved a version of Rule 4311 and incorporated it within the SIP; please see 68 FR 8835. California has not made any intervening submittals of the rule.

C. What is the purpose of the submitted rule revisions?

VOCs and oxides of nitrogen (NO_X) help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_X emissions.

SJVAPCD Rule 4311 is designed to decrease VOC and NO_X emissions from industries such as refineries, unrecoverable gases from oil wells, vented gases from blast furnaces, unused gases from coke ovens, and gaseous wastes from chemical industries by requiring that flares be operated in a prescribed manner. The June 15, 2006 revisions to the rule set the applicability threshold for the rule at ten tons per year potential to emit VOC or NO_X and provide a compliance schedule for facilities subject to the rule.

EPA's technical support document (TSD) has more information about the Rule 4311.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see section 182(a)(2)), and must not relax existing requirements (see sections 110(l) and 193). The SJVAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4311 must fulfill RACT.

Guidance and policy documents that we used to help evaluate enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' USEPA, May 25, 1988 (the Bluebook).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' USEPA Region 9, August 21, 2001 (the Little Bluebook).

B. Does the rule meet the evaluation criteria?

We believe Rule 4311 is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules. We recommend that SJVAPCD reconsider the utility of incorporating provisions such as those in South Coast Air Quality Management District Rule 1118 and Bay Area Air Quality Management District Rule 12–12 within Rule 4311 to aid their enforcing of the rule, developing an accurate emissions inventory for these sources, and minimizing excess emissions from flare activity to the maximum extent practicable.

D. Public Comment and Final Action

Because EPA believes Rule 4311 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period sufficient to cause us to reverse our position, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 2, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E7–22656 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–0621; FRL–8497–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust sources and cement manufacturing plants. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by December 20, 2007.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–0621, by one of the following methods:

1. *Federal eRulemaking Portal: 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 *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 *www.regulations.gov* or e-mail. *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.

Docket: The index to the docket for this action is available electronically at *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: Jerry Wamsley, EPA Region IX, at either (415) 947–4111, or *wamsley.jerry@epa.gov*.

SUPPLEMENTARY INFORMATION:
Throughout this document, ''we'', ''us'', and ''our'' refer to EPA.

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D. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are proposing to approve with the dates that they were adopted by the SCAQMD and submitted by the California Air Resources Board.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	403	Fugitive Dust	06/03/05	10/20/05
SCAQMD	1156	Further Reductions of Particulate Emissions from Cement Manufacturing Facilities.	11/04/05	12/29/06

On November 22, 2005 and February 14, 2007, respectively, EPA found Rules 403 and 1156 met the completeness criteria in 40 CFR Part 51, Appendix V. The state must meet these criteria before formal EPA review can begin.

B. Are there other versions of these rules?

EPA has reviewed, approved, and incorporated into the SIP a prior version of Rule 403 (see 70 FR 69081, November 14, 2005). California has not submitted any subsequent versions of Rule 403. Regarding Rule 1156, California has not submitted a prior version for incorporation into the SIP.

C. What is the purpose of the submitted rules?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions.

SCAQMD Rule 403 is designed to limit the emissions of fugitive dust or PM from a variety of activities and sources such as construction sites, bulk material hauling, unpaved parking lots, and disturbed soil in open areas and vacant lots. The rule's provisions include a visible emissions property line standard, requirements to implement Best Available Control Measures (BACM), upwind/downwind PM10 concentration standards, prevention of material track-out onto paved public roads, and special control requirements for large operations (sources greater than 50 acres or with more than 5,000 cubic yards of daily earth-movement). The June 3, 2005 amendments to Rule 403 added BACMs for confined animal feed operations (CAFO) to the rule and amended requirements for weed abatement activities. The new CAFO BACMs apply to manure and feedstock handling, disturbed surfaces, unpaved roads, and equipment parking areas (see the Staff Report Table 1, page 8). The amended requirements for weed abatement activities allow for discing weeds without applying water where the authorized agency determines that watering is not feasible and other effective control measures are used to minimize fugitive emissions and stabilize disturbed soils. Discing activities that meet these requirements are exempt from Rule 403.

SCAQMD Rule 1156 is designed to limit PM from cement manufacturing facilities. Rule 1156 establishes requirements and control measures for the following: (1) Visible emissions; (2) material loading, unloading, and transferring; (3) material crushing, screening, grinding, blending, drying, mixing, packaging, and other related operations; (4) kilns and clinker coolers; (5) material storage; (6) air pollution control device performance standards; (7) internal roadways and vehicle use areas; and, (8) material track-out. The rule also has provisions for monitoring and determining compliance, recordkeeping, and exemptions from the rule.

EPA's technical support documents (TSD) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The SCAQMD regulates a PM nonattainment area classified as serious (see 40 CFR part 81), so both of these rules must implement BACM/BACT.

Guidance and policy documents that we use to help evaluate specific enforceability and RACM/RACT or BACM/BACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

5. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).

6. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.

7. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, BACM, and SIP relaxations. Each rule is discussed below.

Under Rule 403, the weed abatement amendments provide added control measures for weed abatement activities that are allowed an exemption because it is infeasible to water prior to discing or mowing. Those weed abatement operations that do not use water are subject to disturbed open area stabilization requirements and the rule's fence-line opacity requirement. Also, any added PM emissions that may occur as a result of the exemptions are offset within the SIP by the reduced PM emissions generated by the new CAFO requirements. Consequently, we find that the revisions to Rule 403 do not relax the SIP or interfere with any applicable requirements of the Act.

Rule 1156 is a new rule that strengthens the SIP by requiring additional BACM and MSMs for cement manufacturing facilities. As such, it will not interfere with any applicable requirements concerning attainment and reasonable further progress, or any other applicable requirements of the Act. Therefore, approval of this rule is consistent with CAA 110(l). Because this rule does not modify any control requirements in effect prior to November 15, 1990, section 193 of the Act does not apply to our action.

The TSD has more information on our evaluation of these rules.

C. EPA Recommendations To Further Improve the Rule

The TSD for Rule 403 describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the SCAQMD modifies the rule.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the

Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period that causes us to reconsider this proposed approval action, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 2, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E7–22658 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

Notices

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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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service Performance Review Board; Update

AGENCY: U.S. Agency for International Development, Office of Inspector General.

ACTION: Notice. Senior Executive Services (SES) Performance Review Board: Update.

SUMMARY: This notice is hereby given of the appointment of members of the updated USAID OIG SES Performance Review Board.

DATES: November 15, 2007.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Management, Office of Inspector General, U.S. Agency for International Development, 1300 Pennsylvania Avenue, NW., Room 8.08–029, Washington, DC 20523–8700; telephone 202–712–0010; Fax 202–216–3392; Internet e-mail address: *phayes@usaid.gov* (for e-mail messages, the subject line should include the following reference—USAID OIG SES Performance Review Board).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(b)(c) requires each agency to establish, in accordance with regulations prescribed by the office of Personnel Management at 5 CFR part 430, subpart C and Section 430.307 thereof in particular, one or more Senior Executive Service Performance Review Boards. The board shall review and evaluate the initial appraisal of each USAID OIG senior executive's performance by his or her supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. This notice updates the membership of the USAID OIG's SES Performance Review Board as it was last published on May 31, 2007.

Approved: November 15, 2007.

The following have been selected as regular members of the SES Performance Review Board of the U.S. Agency for International Development, Office of Inspector General:

Michael G. Carroll, Deputy Inspector General.
Adrienne Rish, Assistant Inspector General for Investigations.
Paula F. Hayes, Assistant Inspector General for Management.
Lisa S. Goldfluss, Legal Counsel.
Alvin A. Brown, Deputy Assistant Inspector General for Audit.
Howard I. Hendershot, Deputy Assistant Inspector General for Investigations.
Winona Varnon, Director, Security Services, Department of Education.
Pauline K. Brunelli, Director, Federal Voting Assistance Program Department of Defense.
Aletha Brown, Inspector General, Equal Employment Opportunity Commission.
Mark Bialek, Counsel to the Inspector General, Environmental Protection Agency.
Theodore P. Alves, Assistant Inspector General Financial Information, Department of Transportation.

Dated: November 15, 2007.

Donald A. Gambatesa,

Inspector General.

[FR Doc. 07–5771 Filed 11–19–07; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Special Areas; State Petitions for Inventoried Roadless Area Management

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection, State Petitions for Inventoried Roadless Area Management.

DATES: Comments must be received in writing on or before January 22, 2008 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Forest Service, USDA Assistant Director for Planning, Ecosystem Management Coordination, Mail Stop 1104, 1400 Independence Avenue, SW., Washington, DC 20250–1104.

Comments also may be submitted via facsimile to (202) 205–1012 or by e-mail to: *bsupulski@fs.fed.us*.

The public may inspect comments received at the Ecosystem Management Coordination Office, 201 14th St., SW., Washington, DC 20250–1104 during normal business hours. Visitors are encouraged to call ahead to (202) 205–0895 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Bill Supulski, Ecosystem Management Coordination, (202) 205–0948. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Special Areas; State Petitions for Inventoried Roadless Area Management

OMB Number: 0596–0178

Expiration Date of Approval: May 31, 2008

Type of Request: Extension of a currently approved collection

Abstract: On May 13, 2005, the Forest Service published a final rule 36 CFR part 294 creating an individual state petitioning process for state and territorial governors to seek establishment of management requirements for National Forest System inventoried roadless areas within their States. On September 19, 2006, the United States District Court for the Northern District of California issued an order setting aside the state petitions rule. (*People of the State of California, ex rel Lockyer* v. *U.S. Dept. of Agriculture, No. C05–03508–EDL (N.D. Cal.).* This decision is currently under appeal. The petitions will only be collected and used if this injunction is lifted. If the injunction is lifted, the petitions would be evaluated and if accepted by the Secretary of Agriculture, the Forest Service would initiate subsequent State-specific rulemaking for the management of inventoried roadless areas in cooperation with the state or territory involved in the petitioning process.

Estimate of Annual Burden: This is estimated to be as high as 1,000 hours for a single petition, depending on the number of roadless areas within a State and the extent of adjustment to roadless area management recommended in an individual petition.

Type of Respondents: State and territorial governors.

Estimated Annual Number of Respondents: 36; if all affected states and territories submit petitions.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: Up to 36,000 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: November 15, 2007.

Gloria Manning,

Associate Deputy Chief, NFS.

[FR Doc. E7–22668 Filed 11–19–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Umatilla National Forest, Grant County, OR Farley Analysis Area Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture—Forest Service proposes to conduct vegetation management activities on approximately 17,500 acres of upland forest sites in the Farley Analysis Area to restore sustainable forest conditions in the Desolation Creek watershed. The proposed action will use a range of mechanical harvest and non-harvest thinning and prescribed fire activities to alter species composition, stand structure, and fire regime condition class to re-create conditions that are consistent with the historic range of variability for forests of the Blue Mountains of northeastern Oregon, and to capture the commercial value of forest raw materials for the benefit of local economies.

The Farley Analysis Area encompasses the Desolation Creek watershed which covers 69,672 acres of diverse mountainous, mostly forested landscapes ranging in elevation from 7,765 ft at its headwaters to 2810 ft at its confluence with the North Fork John Day River near Dale, Oregon. It includes both National Forest and privately-owned lands; private lands comprise about 18 percent of the total area, mostly at lower elevations at the western end of the watershed.

Development and implementation of these actions will be conducted in accordance with the National Forest Management Act, National Environmental Policy Act, Council on Environmental Quality regulations, Clean Water Act, Clean Air Act, Endangered Species Act, and with the Umatilla National Forest Land and Resource Management Plan and scientific recommendations of the Interior Columbia Basin Ecosystem Management Project.

DATES: Comments concerning the scope of the analysis must be received by December 12, 2007. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available to the public for review by February 2008. The Final EIS is scheduled to be completed by April 2008.

ADDRESSES: Send written comments to the Responsible Official, Kevin D. Martin, Forest Supervisor, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, OR 97801. Send electronic comments to: *comments-pacificnorthwestumatilla@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Michael A. Beckwith, Technical Writer-Editor, North Fork John Day Ranger District, 401 Main Street, Ukiah, OR 97880, phone (541) 427–5335. E-mail: *mabeckwith@fs.fed.us.*

SUPPLEMENTARY INFORMATION: *Purpose and Need.* Since the early 1900s, fire has been aggressively excluded from forest ecosystems throughout the Nation. From the mid to late 1900s, timber harvest practices in the interior Columbia Basin have emphasized removal primarily of mature ponderosa pine. The result has been a shift in forest conditions toward dense stands of Douglas and grand fir containing large amounts of dead and decaying wood that now are subject to insect infestations, disease, and very large wildfires, in contrast to the more open stands of fire-adapted species (such as ponderosa pine) that would be expected to occur historically.

In addition, in 1996 the Bull, Summit and Tower wildfires in and near the Farley Analysis Area involved mature lodgepole pine forests that had experienced substantial insect mortality. These fires were uncharacteristically intense and covered large areas (over 130,000 acres) because, as a result of past fire suppression and timber harvest practices, the forests had become more dense (more trees per acre) and contained a larger amount of dead wood than would have existed historically. These fires resulted in greater loss of old forest structure, wildlife cover and habitat, riparian structure and vegetation, erosion and detrimental effects to soils over very large areas than would have been anticipated historically.

The Desolation Watershed Analysis (1999) found that almost 60 percent of upland-forest sites in the Farley area exhibit moderate or high departures from the characteristic species composition, structure and stand density conditions than would have existed historically. These conditions are outside the range of historic variability for forests in the Blue Mountains and are not sustainable over the long-term, with the end result likely to be very large, destructive wildfires. Therefore, the purpose and need for the Farley Vegetation Management Project is to improve the long-term sustainability of upland forests by reducing stand densities and fuel loads, restoring appropriate species composition, altering forest structure and fire regime condition class, regenerating mature lodgepole stands that currently exist, and to capture the commercial value of raw wood materials for the benefit of local economies.

Proposed Action. The Forest Service proposes to conduct mechanical harvest and non-harvest thinning, prescribed fire, fuels treatment, and reforestation activities on approximately 17,460 acres in the Farley Analysis Area in accordance with the resource management objectives and standards set forth in the Umatilla National Forest Land and Resource Management Plan (1990) and the scientific recommendations of the Interior Columbia Basin Ecosystem Management Project (1996). These activities are anticipated to yield approximately 60,000 hundred cubic feet of merchantable material. Approximately 100 miles of open and seasonally open roads will be required for the proposed action, including construction of approximately 40 miles of new system and temporary roads, and approximately 50 miles of reconstruction and maintenance of existing forest system roads. Approximately 2 miles of existing road will be closed and/or decommissioned at the conclusion of the proposed activities.

The proposed action requires amendments to the Forest Plan with respect to connectivity among stands exhibiting old forest structure, scenic values, and total area (at the specific stand, subwatershed and watershed level) allowed to be in the less than 20 year old age class. Implementation of the proposed actions could begin in late 2008.

Possible Alternatives. Alternatives will include the proposed action, no action, and additional alternatives that respond to issues generated during the scoping process. The agency will give notice of the full environmental analysis and decision-making process so interested and affected people may participate and contribute to the final decision.

Scoping. Correspondence with tribes, government agencies, organizations, and individuals who have indicated interest will be conducted and input will be solicited.

Preliminary Issues. Preliminary issues identified include the potential effects of the proposed action on long-term forest conditions and sustainability, fish and wildlife habitat, hydrology and water quality, soils and scenic values.

Comment. Public comments on this proposed action are requested to identify issues and alternatives to the proposed action and to focus the scope of the analysis. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action, and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentially. Persons requesting such confidentially should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied; the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

Early Notice of Importance of Public Participation in Subsequent Environmental Review. A draft EIS will be filed with the Environmental Protection Agency (EPA) and made available for public review by January 2008. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available April 2008.

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 impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the 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 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. Reviews 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.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is Craig Dixon, District Ranger, North Fork John Day Ranger District, Umatilla National Forest. The responsible official will decide where, and whether or not to salvage timber, and remove potential hazard trees. The responsible official will select the treatment alternative(s) for the Farley Vegetation Management, as well as potential mitigation and monitoring measures that may be needed. The decision will be documented in a record of decision. The decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: November 14, 2007.

Kevin Martin,

Forest Supervisor.

[FR Doc. 07–5754 Filed 11–19–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Coronado National Forest, USDA Forest Service, Tucson, Arizona.

ACTION: Notice of New Fee Site.

SUMMARY: The Coronado National Forest proposes to begin charging a new $150.00 per day fee for rental of the Rockfellow House located 10 miles west of Sunsites, Arizona. Rental of the Cabin includes overnight use. Rental of the cabin and other facilities within the Arizona National Forests has shown that the public appreciates and enjoys the availability of historic rental facilities. Funds from the rentals will be used for the continued operation and maintenance of the Rockfellow House.

DATES: Rockfellow House will become available for rent July, 2008.

ADDRESSES: Coronado National Forest, 300 West Congress, Tucson, AZ 85701

FOR FURTHER INFORMATION CONTACT: Kathy Makansi, Archaeologist, Coronado National Forest, (520) 760–2502.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. The

Coronado National Forest currently has one other rental facility. This facility is booked regularly throughout the rental season. A business analysis for the rental of the Rockfellow House shows that people desire having this sort of recreation experience on the Coronado National Forest. A market analysis indicates that the $150.00 daily fee is both reasonable and acceptable for this sort of unique recreation experience.

People wanting to rent the Rockfellow House will need to do so through the National Recreation Reservation Service, at *www.recreation.gov* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee per reservation.

Dated: November 13, 2007.

Jeanine Derby,

Forest Supervisor, Coronado National Forest.

[FR Doc. 07–5753 Filed 11–19–07; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Mississippi Advisory Committee to the Commission will convene by conference call at 1 p.m. and adjourn at 3 p.m. on Thursday, December 13, 2007. The purpose of this meeting is to conduct planning for a 2008 SAC project.

This meeting is available to the public through the following toll-free call-in number: (866) 364–7584, conference call access code number 24128876. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and contact name Farella E. Robinson.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Corrine Sanders of the Central Regional Office and TTY/TDD telephone number, by 4 p.m. on December 7, 2007.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by December 7, 2007. The address is U.S. Commission on Civil Rights, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. Comments may be e-mailed to *frobinson@usccr.gov* Records generated by this meeting may be inspected and reproduced at the Central Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Central Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, November 13, 2007.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. E7–22606 Filed 11–19–07; 8:45 am]

BILLING CODE 6335–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the regulations of the Federal Advisory Committee Act (FACA), that a meeting of the Utah Advisory Committee will convene at 6 p.m. and adjourn at 8 p.m. (MST) on Thursday, December 6, 2007 at Horizonte Instruction and Training Center, 1234 S. Main Street, Salt Lake City, UT 84101.

The purpose of the meeting is for the committee to discuss recent Commission and regional activities, review a draft of summary report on civil rights issues affecting American Indians in Utah and plan future activities.

Members of the public are entitled to submit written comments; the comments must be received in the Rocky Mountain Regional Office by January 31, 2007. The address is: U.S. Commission on Civil Rights, Rocky Mountain Regional Office, 1961 Stout Street, Suite 240, Denver, Colorado 80294. Persons wishing to e-mail their comments or who desire additional information should contact Malee V. Craft, Director of the Rocky Mountain Regional Office, (303) 866–1040 (TDD 303–866–1049) or by e-mail at *mcraft@uscccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or contact the Rocky Mountain Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated at Washington, DC, November 13, 2007.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. E7–22609 Filed 11–19–07; 8:45 am]

BILLING CODE 6335–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of the Immigration Subcommittee of the Virginia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on December 14, 2007, in the Board Chambers at the James J. McCoart Administration Building located at One County Complex Court in Woodbridge, Virginia.

The purpose of the briefing is to hear from local officials and advocacy groups about the recent immigration resolution in Prince William County. Following the briefing, the entire Virginia State Advisory Committee will conduct a planning meeting to discuss future activities.

Members of the public are entitled to submit written comments; the comments must be received in the Eastern Regional Office by December 31, 2007. The address is 624 Ninth Street, NW., Washington, DC 20425. Persons wishing to e-mail their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Alfreda Greene, Secretary, 202–376–7533, TTY202–376–8116, or by e-mail: *agreene@usccr.gov.*

Hearing-impaired persons who will attend the meetings and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from these meetings may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, November 13, 2007.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. E7–22605 Filed 11–19–07; 8:45 am]

BILLING CODE 6335–02–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on December 13, 2007, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Public Session

1. Opening Remarks and Introductions.
2. Presentation of Papers and Comments by the Public.
3. Report of 2008 Wassenaar Proposals.
4. Report on proposed changes to the Export Administration Regulations.
5. Other Business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than December 5, 2007.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 6, 2007, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: November 13, 2007.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E7–22616 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet December 4, 2007, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Opening remarks by Bureau of Industry and Security.
4. RPTAC comments on Commerce Control List Review.
5. RPTAC comments on Encryption.
6. Working group reports.
7. Regulations update.
8. Export Enforcement update.
9. Automated Export System (AES) update.

Closed Session

10. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than November 27, 2007.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 2, 2007, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: November 14, 2007.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E7–22615 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–814, A–834–806, A–485–806, A–791–809, C–357–815, C–791–810]

Certain Hot–Rolled Carbon Steel Flat Products from Argentina, Kazakhstan, Romania, and South Africa: Revocation of Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: As a result of the determinations by the International Trade Commission (ITC) that revocation of the antidumping (AD) orders on certain hot–rolled carbon steel flat products (HR steel) from Argentina, Kazakhstan, Romania, and South Africa and the countervailing duty (CVD) orders on HR steel from Argentina and South Africa would not be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, the Department of Commerce (the Department) is publishing this notice of revocation of these AD and CVD orders pursuant to section 751(d)(2) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATES: September 11, 2006 (Argentina/CVD), September 19, 2006 (Argentina and South Africa/AD), November 21, 2006 (Kazakhstan/AD), November 29, 2006 (Romania/AD), and December 3, 2006 (South Africa/CVD).

FOR FURTHER INFORMATION CONTACT: Preeti Tolani (Argentina/AD and CVD) at (202) 482–0395, Martha Douthit (Kazakhstan and South Africa/AD) at (202) 482–5050, Richard Rimlinger (Romania/AD) at (202) 482–4477, Elfi Blum (South Africa/CVD) at (202) 482–0197, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The AD and CVD orders which cover HR steel from Argentina, Kazakhstan, Romania, and South Africa were published in the **Federal Register** in September, November and December 2001. *See Notice of Antidumping Duty Orders: Certain Hot–Rolled Carbon Steel Flat Products From Argentina and the Republic of South Africa*, 66 FR 48242 (September 19, 2001); *Antidumping Duty Order: Certain Hot–Rolled Carbon Steel Flat Products From Kazakhstan*, 66 FR 58435 (November 21, 2001); and *Notice of Amended Final Antidumping Duty Determination and Antidumping Duty Order: Certain Hot–Rolled Carbon Steel Flat Products From Romania*, 66 FR 59566 (November 29, 2001); *Notice of Countervailing Duty Order: Certain Hot–Rolled Carbon Steel Flat Products from Argentina*, 66 FR 47173 (September 11, 2001); *Notice of Countervailing Duty Order: Certain Hot–Rolled Carbon Steel Flat Products From South Africa*, 66 FR 60201 (December 3, 2001).

On August 1, 2006, the Department initiated and the ITC instituted sunset reviews of the AD orders on HR steel from Argentina, Kazakhstan, Romania, and South Africa and CVD orders on HR steel from Argentina and South Africa pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 43443 (August 1, 2006); and *Hot–Rolled Carbon Steel Flat Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine, Investigation Nos. 701–TA–404–408 and 731–TA–898–908 (Review)*, 71 FR 43521 (August 1, 2006).

As a result of its reviews, the Department found that revocation of the AD and CVD orders would likely lead to continuation or recurrence of dumping and countervailable subsidies, and notified the ITC of the magnitude of the margins and net countervailable subsidies likely to prevail were the orders to be revoked. *See Certain Hot–Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006); and *Hot–Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand: Final Results of Expedited Five- Year (Sunset) Reviews of the Countervailing Duty Orders*, 71 FR 70960 (December 7, 2006).

On October 31, 2007, the ITC determined pursuant to section 751(c) of the Act, that revocation of the AD orders on HR steel from Argentina, Kazakhstan, Romania, and South Africa and CVD orders on HR steel from Argentina and South Africa would not be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Hot–Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 72 FR 61676 (October 31, 2007) and USITC Publication 3956 (October 2007), entitled *Hot–Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine: Investigation Nos. 701–TA–404–408 and 731–TA–898–902 and 904- 908 (Review)*.

Scope of the Orders

The merchandise subject to these orders is certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these orders.

Specifically included within the scope of these orders are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of these orders, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or

2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical descriptions provided above are within the scope of these orders unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of these orders :

- Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion–resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these orders is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat products covered by these orders, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise subject to these orders is dispositive.

Revocation of Orders

As a result of the determinations by the ITC that revocation of these AD and CVD orders is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, the Department is revoking the AD on HR steel from Argentina, Kazakhstan, Romania, and South Africa and CVD orders on HR steel from Argentina and South Africa.

Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective dates of revocation are September 11, 2006 (Argentina/CVD), September 19, 2006 (Argentina and South Africa/AD), November 21, 2006 (Kazakhstan/AD), November 29, 2006 (Romania/AD), and December 3, 2006 (South Africa/CVD) (*i.e.*, the fifth anniversary of the dates of publication in the **Federal Register** of the notice of the AD and CVD orders). The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after the effective date of revocation of these AD and CVD orders. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year (sunset) reviews and this notice are in accordance with section 751(c) and 751(d)(2) of the Act. This notice is published pursuant to 751(c) and 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: November 8, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22673 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–878]

Saccharin from the People's Republic of China: Notice of Rescission of the 2006–2007 Administrative Review of the Antidumping Duty Order

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

EFFECTIVE DATE: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Frances Veith, AD/CVD Operations, Office 8, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4295.

Background

On July 3, 2007, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative review of the antidumping duty order on saccharin from the People's Republic of China (''PRC''). *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 36420 (July 3, 2007). On July 30, 2007, Shanghai Fortune Chemical Co., Ltd. (''Shanghai Fortune'') requested that the Department conduct an administrative review of Shanghai Fortune's exports to the United States for the period of review (''POR'') July 1, 2006, through June 30, 2007. Pursuant to this request, the Department published a notice of the initiation of the administrative review of the antidumping duty order on saccharin from the PRC for the POR. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (August 24, 2007). On October 22, 2007, Shanghai Fortune withdrew its request for the administrative review of the antidumping order on saccharin from the PRC for the POR.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. In this case, Shanghai Fortune timely withdrew its request for a review, and no other interested party requested a review of this company. Therefore, the Department is rescinding this administrative review of the antidumping duty order on saccharin from the PRC covering the period July 1, 2006, through June 30, 2007, in accordance with 19 CFR 351.213(d)(1).

Assessment

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

Notification to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Pursuant to 19 CFR 351.402(f)(3), failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

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 and as explained in the APO itself. Timely written notification of the return/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.

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 14, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22682 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–827]

Sodium Metal from France: Notice of Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Dennis McClure at or Joy Zhang, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5973 and (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATION

The Petition

On October 22, 2007, the Department of Commerce (Department) received an antidumping duty petition concerning sodium metal from France, filed by E.I. DuPont de Nemours & Co. Inc. (the petitioner) on behalf of the domestic industry producing sodium metal. *See* Antidumping Duty Petition on Sodium Metal from France (Petition). On October 29, 2007, the Department clarified that the official filing date for the Petition was October 23, 2007. *See* Memorandum from Lisa Nguyen, Import Policy Analyst, to Deputy Assistant Secretary Stephen Claeys: Decision Memorandum Concerning Petition Filing Date, dated October 29, 2007.

The petitioner is the only domestic producer of sodium metal. On October 25, 2007, the Department issued a request for additional information and clarification of certain areas of the Petition. On October 30, 2007, in response to the Department's request, the petitioner filed a supplement to the Petition. On November 1, 2007, the Department requested further clarification with regard to the Petition and the October 30, 2007, supplement to the Petition. The petitioner filed a second supplement to the Petition on November 2, 2007. On November 6, 2007, the Department requested further clarification and additional information in regard to the petitioner's November 2, 2007, supplement to the Petition. The petitioner further supplemented the Petition on November 8, 2007. On November 9, 2007, the Department requested further clarification and additional information in regard to the petitioner's November 8, 2007, supplement to the Petition. Finally, the petitioner supplemented the Petition on November 9, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of sodium metal from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated that the petitioner is the only known member of the industry with respect to the initiation of the antidumping duty investigation that the petitioner is requesting. *See* the ''Determination of Industry Support for the Petition'' section below.

Period of Investigation

Because the Petition was filed on October 23, 2007, the anticipated period of investigation (POI) is October 1, 2006, through September 30, 2007. *See* 19 CFR 351.204(b).

Scope of the Investigation

The merchandise covered by this investigation includes sodium metal (Na), in any form and at any purity level. Examples of names commonly used to reference sodium metal are sodium metal, sodium, metallic sodium, and natrium. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) as subheading 2805.11.0000. The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''Sodium'' to sodium metal. The CAS registry number is 7440–23–5. For purposes of the investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Comments on Scope of Investigation

We are setting aside a period for interested parties to raise issues regarding product coverage, as discussed in the preamble to the regulations. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information because the Department determines industry support at the time of initiation. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001); *see also Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like–product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that sodium metal constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like–product analysis, see the *Antidumping Duty Investigation Initiation Checklist: Sodium Metal from France (Initiation Checklist*) at Attachment II (Analysis of Industry Support), on file in the CRU, Room B–099 of the main Department of Commerce building.

In determining whether the petitioner has standing (i.e., those domestic workers and producers supporting the petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the Petition with reference to the domestic like product as defined in Attachment I (Scope of the Petition) to the *Initiation Checklist*. To establish industry support, the petitioner indicated that it was the sole producer of the domestic like product and provided its production statistics for the domestic like product for the year 2006. The Petition indicates that the petitioner is the sole producer of sodium metal. For further discussion see the *Initiation Checklist* at Attachment II.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. First, the Petition established support from the domestic producer accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act. Second, the domestic producer has met the statutory criteria for industry support under 732(c)(4)(A)(i) because the domestic producer who supports the Petition accounts for at least 25 percent of the total production of the domestic like product. Finally, the domestic producer has met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producer supporting the Petition accounts for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Initiation Checklist* at Attachment II.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry in accordance with section 732(c)(4)(A) of the Act. The petitioner is an interested party as defined in section 771(9)(C) of the Act and had demonstrated sufficient industry support in favor of the initiation of the antidumping duty investigation. *See Initiation Checklist* at Attachment II.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than fair value. The petitioner contends that the industry's injured condition is illustrated by the reduced market share, lost revenue and sales, underutilized production and capacity, reduced shipments, underselling and price depressing or suppressing effects, reduced employment, and decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at Attachment III.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of sodium metal from France.

The sources of data for the deductions and adjustments relating to the U.S. price as well as normal value (NV) for France are discussed in greater detail in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will re–examine the information and revise the margin calculations, if appropriate.

Export Price

The petitioner provide two different calculations for export price (EP). The first calculation was based on estimates, which were in turn based on certain assumptions. The second calculation was based on the average unit values (AUVs) for U.S. import data during the POI as reported on the ITC's Dataweb for HTSUS subheading 2805.11.0000. *See* Petition, Exhibits II–1 and 6. For initiation, we did not rely on the estimated prices because we did not find the estimated prices to be reasonable because the assumptions were not based on prices from an actual sale or price quotes. Instead, we relied on the AUV to calculate EP, which was based on customs data. The petitioner calculated the AUV based on U.S. imports of sodium metal during the POI obtained from U.S. import statistics for HTSUS subheading 2805.11.0000. The petitioner states, to the best of its knowledge, sodium metal is the only product that is properly classifiable under this HTSUS number. The petitioner calculated net price by deducting an amount for foreign inland freight for shipping the subject merchandise and for returning the iso–container. The petitioner also deducted an amount for ocean freight for returning the iso–container to arrive at an ex–factory price. *See* November 2, 2007, supplement to the Petition at page 11 and Exhibit S–24.

Normal Value

The petitioner based NV on a sale of sodium metal by M.S.S.A. to one of its home market customers in France during the POI. *See* Exhibit S–25 of the November 8, 2007, supplement to the Petition. The petitioner deducted freight expense. *See* Exhibit II–9 of the Petition. The petitioner then deducted home market packing expenses and added U.S. packing expenses. See Exhibit II–5 and II–10 of the Petition. The petitioner then converted the Euro per metric ton amount to a U.S. dollar per pound amount by applying the POI exchange rate and converted the per metric ton dollar amount to pounds.

Sales–Below-Cost Allegation

The petitioner has provided information demonstrating reasonable grounds to believe or suspect that sales of sodium metal in France were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales–below-cost investigation.

An allegation of sales below COP need not be specific to individual exporters or producers. *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1 (1994) at 833 (SAA). Thus, the Department's practice, as reflected in the SAA, is to consider allegations of below–cost sales in the aggregate for a foreign country. *Id.* Further, section 773(b)(2)(A) of the Act requires that the Department have ''reasonable grounds to believe or suspect'' that below–cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below–cost prices.

As described in the section below on ''Cost of Production and Constructed Value,'' the Department calculated a country–specific COP for sodium metal for France.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(I) of the Act. Accordingly, the Department is initiating a country–wide cost investigation with regard to France. We note, however, that if we determine that the home market (*i.e.*, France) is not viable, our initiation of a country–wide cost investigation with respect to sales in the home market will be rendered moot. *See Initiation Checklist*.

Cost of Production and Constructed Value

Pursuant to section 773(a)(4) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A); financial expenses; and packing.

Pursuant to section 773(a)(4) of the Act, the petitioner calculated a single constructed value (CV) as the basis for NV. The petitioner calculated CV using the COM; SG&A expenses; financial expenses; and packing expenses. The petitioner then added the average profit rate based on the 2006 financial statements of a chemical producer in France. *See Initiation Checklist*.

Specifically, the petitioner calculated COM and packing based on publicly available data and on a U.S. producer's cost experience, adjusted for known differences (*e.g.*, labor), to manufacture sodium metal in France, basing these adjustments on publicly available data. To calculate SG&A and financial expense rates, the petitioner relied on the most contemporaneous financial statements for a chemical producer in France. *See Initiation Checklist*.

The petitioner determined the input quantities of raw materials needed to produce one metric ton of sodium metal based on the experience of a U.S. sodium metal producer. See the November 8, 2007, supplement to the Petition at revised Exhibit 4. The petitioner valued the required raw material input quantities based on its own experience and publicly available information and provided an affidavit in the November 8, 2007, supplement to the Petition at revised Exhibit 23 as support.

The petitioner determined labor costs using the labor cost experience of a U.S. sodium metal producer to manufacture one metric ton of sodium metal, adjusted by the ratio of labor costs in France to that of the United States. The petitioner obtained the annual French and U.S. labor costs from the International Labor Organization statistics for 2005 for France and the United States. *See* the November 8, 2007, supplement to the Petition at page 8 and Exhibit 30.

The petitioner determined energy costs using input quantities of electricity needed to produce one metric ton of sodium metal based on the experience of a U.S. sodium metal producer and values using the Energy Information Administration publication for electricity and natural gas costs in France for 2006. In addition, the petitioner used the cost experience in 2006 of a U.S. sodium metal producer for steam, water, and nitrogen to manufacture one metric ton of sodium metal. See the November 8, 2007, supplement to the Petition at page 3 and Exhibits 9 and 10. The petitioner provided an affidavit in the November 8, 2007, supplement to the Petition at revised Exhibit 23 as support.

The petitioner determined the fixed overhead costs (exclusive of energy and labor) using the cost experience of a U.S. sodium metal producer to manufacture one metric ton of sodium metal adjusted to reflect costs in France. Specifically, the petitioner determined the ratio of total fixed overhead to the total of raw materials, labor, variable overhead, and energy and utilities in 2006 for a U.S. producer and applied this ratio to these same factors included in its build–up of the cost of manufacturing of one metric ton of sodium metal. *See* the November 8, 2007, supplement to the Petition at pages 5 and 6 and revised Exhibits 4 and 5.

To calculate SG&A expense, interest expense and profit, the petitioner relied on the financial statements of a French chemical producer (*i.e.*, Rhodia) for the fiscal year ended December 31, 2006. *See* the November 8, 2007, supplement to the Petition at pages 6 and 7 and Exhibit 28.

The petitioner then reduced its calculated cost of producing one metric ton of sodium metal by allocating a portion of the total cost of production to the production of chlorine gas, which is a joint product in the production of sodium metal. The petitioner based this allocation on the experience of a U.S. sodium metal producer. *See* the November 8, 2007, supplement to the Petition at page 7 and the affidavit at Exhibit 29, which was provided as support.

Fair–Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of sodium metal from France are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price to NV, the estimated average dumping margin based on a price–to-price comparison is 66.08 percent, and the estimated average dumping margin based on a price–to-CV comparison is 109.79 percent.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on sodium metal from France, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of sodium metal from France are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

For this investigation, the Department intends to select respondents based on CBP data for U.S. imports during the POI. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petition has been provided to representatives of the government of France. We will attempt to provide a copy of the public version of the Petition to all exporters named in the Petition, as provided for in 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than December 7, 2007, whether there is a reasonable indication that imports of sodium metal from France are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

DATED: November 13, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–22675 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–894]

Certain Tissue Paper Products from the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the administrative review of certain tissue paper products from the People's Republic of China (''PRC''). This review cover the period March 1, 2006, through February 28, 2007.

EFFECTIVE DATE: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Bobby Wong or Cindy Robinson, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0409 or (202) 482–3797, respectively.

Background

On March 30, 2005, the Department published in the **Federal Register** an antidumping duty order covering certain tissue paper from the People's Republic of China (''PRC''). *See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005). On April 27, 2007, the Department published a notice of initiation of the administrative review of the antidumping duty order on certain tissue paper products from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (April 27, 2007).

The preliminary results of this review are currently due no later than December 3, 2007, which is the first business day after the current statutory deadline for the preliminary determination.

Statutory Time Limits

In antidumping duty adminstrative reviews, 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 this administrative within the original time limit because the Department requires additional time to analyze questionnaire responses, issue supplemental questionnaires, 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 this administrative review by 61 days. The preliminary results will now be due no later than January 31, 2008. 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 14, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–22684 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea: Notice of Preliminary Results and Preliminary Partial Rescission of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain cut–to-length carbon–quality steel plate (CTL plate) from the Republic of Korea (Korea) for the period January 1, 2006, through December 31, 2006, the period of review (POR). We have preliminarily determined that the administrative review regarding DSEC Co., Ltd. (DSEC) should be rescinded. For information on the net subsidy rate for the other reviewed company, Dongkuk Steel Mill Co., Ltd. (DSM), see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. *See* the ''Public Comment'' section of this notice.

EFFECTIVE DATE: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, the Department published in the **Federal Register** the CVD order on CTL plate from Korea. *See Notice of Amended Final Determination: Certain Cut–to-Length Carbon–Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut–to-Length Carbon–Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000) (*CTL Plate Order*). On February 2, 2007, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (February 2, 2007). On February 26, 2007, we received a timely request for review from DSM, a Korean producer and exporter of subject merchandise. On February 28, 2007, Nucor Corporation (petitioner) requested that the Department conduct an administrative review of the CVD order on CTL plate from Korea with respect to DSM, TC Steel, and DSEC. On March 28, 2007, the Department initiated an administrative review of the CVD order on CTL plate from Korea, covering January 1, 2006, through December 31, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Reviews*, 72 FR 14516 (March 28, 2007). On May 3, 2007, petitioner withdrew its request for a review of TC Steel pursuant to 19 CFR 351.213(d)(1). On July 6, 2007 we published in the **Federal Register** the notice of rescission for TC Steel. *See Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 72 FR 36962 (July 6, 2007). On May 24, 2007, the Department issued a questionnaire to the Government of Korea (GOK), DSM and DSEC. We received questionnaire responses from DSM, DSEC and the GOK on July 30, 2007. On September 13, 2007, the Department issued supplemental questionnaires to the GOK and DSM. We received questionnaire responses from the GOK and DSM on October, 4, 2007. On August 6, 2007, and September 12, 2007, the Department issued supplemental questionnaires to DSEC. We received questionnaire responses from DSEC to the August supplemental questionnaire and the September supplemental questionnaire on August 14, 2007, and September 19, 2007, respectively.

On November 6, 2007, the Department published in the **Federal Register** an extension of the deadline for the preliminary results. *See Certain Cut–to-Length Carbon–Quality Steel Plate Products from the Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and Countervailing Duty Administrative Review*, 72 FR 62625 (November 6, 2007).

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested.

Preliminary Intent to Rescind with Respect to DSEC

Consistent with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review with respect to DSEC based on the absence of shipments of subject merchandise. *See* October 31, 2007, Memorandum to the File through Eric Greynolds, Program Manager, entitled ''Administrative Review of the Countervailing Duty Order on Certain Cut–to-Length Carbon Steel Plate from Korea- DSEC Co., Ltd.- Preliminary Rescission of Administrative Review.'' Accordingly, the only company subject to this review is DSM.

Scope of Order

The products covered by the CVD order are certain hot–rolled carbon–quality steel: (1) universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut–to-length (not in coils) and without patterns in relief), of iron or non–alloy-quality steel; and (2) flat–rolled products, hot–rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut–to-length (not in coils). Steel products to be included in the scope of the order are of rectangular, square, circular or other shape and of rectangular or non–rectangular cross-section where such non–rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')--for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non–metallic substances are included within this scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels.

HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non–metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion–resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to the order is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Subsidies Valuation Information

A. Average Useful Life

Under 19 CFR 351.524(d)(2), we will presume the allocation period for non–recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS Tables do not reasonably reflect the company–specific AUL or the country–wide AUL for the industry under examination and that the difference between the company–specific and/or country–wide AUL and the AUL from the IRS Tables is significant. According to the IRS Tables, the AUL of the steel industry is 15 years. No interested party challenged the 15-year AUL derived from the IRS Tables. Thus, in this review, we have allocated, where applicable, all of the non–recurring subsidies provided to the producers/exporters of subject merchandise over a 15-year AUL.

B. Benchmarks for Long–Term Loans Issued through 2006

During the POR, DSM had outstanding long–term won–denominated and foreign currency–denominated loans from government–owned banks and Korean commercial banks. Based on our findings on this issue in prior investigations and administrative reviews, we are using the following benchmarks to calculate the subsidies attributable to respondent's countervailable long–term loans obtained in the years 1991 through 2006:

(1) For countervailable, foreign currency–denominated loans, pursuant to 19 CFR 351.505(a)(2)(ii) and consistent with our past practice, our preference is to use the company–specific, weighted–average foreign currency–denominated interest rates on the company's loans from foreign bank branches in Korea, foreign securities, and direct foreign loans received after 1991. *See, e.g., Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, 30640 (June 8, 1999) (*Sheet and Strip Investigation*); *see also Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) (*Plate in Coils Investigation*). Where no such benchmarks are available, and consistent with 19 CFR 351.505(a)(3)(ii), we rely on the lending rates as reported by the IMF's *International Financial Statistics Yearbook*. *See Preliminary Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 71 FR 50886 (August 28, 2006) (unchanged in final results by notice of *Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 72 FR 51615 (January 3, 2007)); *see also Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea* 72 FR 38565 (July 13, 2007) (*2005 CTL Plate Final Results*), and the accompanying Issues and Decision Memorandum at Section I. B ''Subsidies Valuation Information'' (*2005 CTL Plate I&D Memo*).

(2) For countervailable, won–denominated, long–term loans, our practice is to use the company–specific corporate bond rate on the company's public and private bonds. This benchmark is consistent with our decision in *Plate in Coils Investigation*, 64 FR at 15531, in which we determined that the GOK did not direct or control the Korean domestic bond market after 1991, and that the interest rate on domestic bonds may serve as an appropriate benchmark interest rate. Where unavailable, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK). *See Plate in Coils Investigation*, 64 FR at 15531. *See also* 19 CFR 505(a)(3)(ii).

In accordance with 19 CFR 351.505(a)(2), our benchmarks take into consideration the structure of the government–provided loans. For fixed–rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used as our benchmark fixed–rate loans issued in the same year that the government loans were issued. For variable–rate loans outstanding during the POR, pursuant to 19 CFR 351.505(a)(5)(i), our preference is to use the interest rates of variable–rate lending instruments issued during the year in which the government loans were issued. Where such benchmark instruments are unavailable, we use weighted–average interest rates of all variable- rate loans issued during the POR as our benchmark, as such rates better reflect a variable interest rate that would be in effect during the POR. This approach is in accordance with the Department's practice in similar cases. *See, e.g., Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip From the Republic of Korea*, 68 FR 13267 (March 19, 2003), and accompanying Issues and Decision Memorandum at Comment 8; *see also* 19 CFR 351.505(a)(5)(ii); *see also 2005 CTL Plate Final Results* and *2005 CTL Plate I&D Memo* at I. B.

Programs Preliminarily Determined To Confer Subsidies

A. The GOK's Direction of Credit

In the most recently completed administrative review of this CVD order, the Department reaffirmed earlier determinations that the GOK controlled and directed lending through year 2001. *See 2005 CTL Plate Final Results* and *2005 CTL Plate I&D Memo* at I. A. In that review, the Department also noted that neither DSM nor the GOK provided any new information that would warrant a change in the Department's determination. Finding that the GOK did not act to the best of its ability, the Department employed an adverse inference and determined that the GOK continued its direction–of-credit policies from 2002 through 2006. *See, e.g., Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 72 FR 10164, 10165 (March 7, 2007) (*2005 CTL Plate Preliminary Results*) (unchanged in final results by *2005 CTL Plate Final Results*).

During the POR, DSM had outstanding loans that were received prior to the 2002 period. In this review, as in the prior administrative review, we asked the GOK for information pertaining to the GOK's direction–of-credit policies for the period from 2002 through 2006. The GOK did not provide any new or additional information that would warrant a departure from these prior findings, stating instead that:

> ''. . . the Government of Korea continues to believe that the evidence demonstrates that there has been no direction of credit to the Korean steel industry. Nevertheless, the Department has consistently found that long–term loans received by Korean steel producers were the result of the Korean Government's direction, despite the Government's repeated submission of evidence to the contrary. . . Consequently, in this review, the Government will not contest the Department's findings on direction of long–term loans.''

See July 30, 2007, GOK submission at pages 8–9. Because the GOK withheld the requested information on its lending policies, the Department does not have the necessary information on the record to determine whether the GOK has continued its direction–of-credit policies through 2006. Therefore, the Department must base its determination on facts otherwise available. *See* section 776(a)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the preliminary results for the determination of direction of credit for loans received from 2002 through 2006.

In this case, the GOK refused to supply requested information that was in its possession, even though the GOK had provided similar information in prior proceedings. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73178 (December 29, 1999) (*CTL Plate Investigation*). Therefore, consistent with sections 776(a)(2)(A) and (B) of the Act, we find that the GOK did not act to the best of its ability and, therefore, are employing an adverse inference in selecting from among the facts otherwise available. Accordingly, we find that the GOK's direction–of-credit policies with respect to the Korean steel industry provide a financial contribution in the form of the provision of loans pursuant to section 771(5)(D)(i) of the Act, confer a benefit in the amount of the difference between the amount that firm paid for the countervailable loan and the amount the firm would pay on a comparable commercial loan within the meaning of section 771(5)(E)(ii) of the Act, and are specific pursuant to section 771(5A)(D)(iii) of the Act because they are limited to the steel industry. Therefore, we find that lending to Korean steel producers from domestic banks and government–owned banks through 2006 is countervailable. Thus, any loans received by Korean steel producers through 2006 from domestic banks and government–owned banks that were outstanding during the POR are countervailable, to the extent that the interest amount paid on the loan is less than what would have been paid on a comparable commercial loan. The Department's decision to rely on adverse inferences when lacking a response from the GOK regarding the direction–of-credit issue, as it applies to the Korean steel industry, is also in accordance with its practice. *See, e.g., Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 71 FR 11397, 11399 (March 7, 2006) (unchanged in the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 71 FR 38861 (July 10, 2006).

DSM received long–term fixed- and variable–rate loans from GOK–owned or controlled institutions that were outstanding during the POR and had both won- and foreign currency–denominated loans outstanding during the POR. In accordance with 19 CFR 351.505(c)(2) and (4), we calculated the benefit for each fixed- and variable–rate loan received from GOK–owned or -controlled banks to be the difference between the actual amount of interest paid on the directed loan during the POR and the amount of interest that would have been paid during the POR at the benchmark interest rate. We conducted our benefit calculations using the benchmark interest rates described in the ''Subsidies Valuation Information'' section above.

To calculate the total benefit for all directed credit, we used the benefits received only from won–denominated loans. There were no benefits received from foreign currency loans. To calculate the net subsidy rate, we divided DSM's total benefits received from won–denominated loans by its respective total F.O.B. sales values during the POR, as this program is not tied to exports or a particular product. On this basis, we preliminarily determine the net subsidy rate under the direction–of-credit program to be less than 0.005 percent *ad valorem* for DSM, which according to the Department's practice, is considered not measurable and is not included in the calculation of the CVD rate. *See 2005 CTL Plate* and the accompanying *2005 CTL Plate I&D Memo* at 6; see also, the ''Other Programs'' section of the Issues and Decision Memorandum that accompanied the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73448 (December 12, 2005) (*2005 Lumber Products Canada*).

B. Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act. The Department has previously found this program to be countervailable. For example, in the *CTL Plate Investigation*, the Department determined that this program was *de facto* specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy were limited in number and the basic metal industry was a dominant user of this program. We also determined that a financial contribution was provided in the form of tax revenue foregone, pursuant to section 771(5)(D)(ii) of the Act. *See CTL Plate Investigation*, 64 FR at 73182–83. The Department further determined that a benefit was conferred, within the meaning of section 771(5)(E) of the Act, on those companies that were able to revalue their assets under TERCL Article 56(2) because the revaluation resulted in participants paying fewer taxes than they would otherwise pay absent the program. *Id.* No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailable status of this program.

The benefit from this program is the difference that the revaluation of depreciable assets has on a company's tax liability each year. Evidence on the record indicates that DSM revalued its assets under Article 56(2) of the TERCL in 1988. However, DSM reports that in 1998 it revalued its assets yet again. DSM states the revaluation in 1998 was not pursuant to TERCL Article 56(2) and, according to the GOK, was consistent with Korean Generally Accepted Accounting Principles (GAAP). DSM claims that the asset revaluations that were adopted in 1988 under Article 56(2) of TERCL were superseded when it revalued its assets in 1998. Hence, the 1988 asset revaluation would only affect the calculation of depreciation costs for tax years prior to 1998. However, there were certain assets that were not revalued in 1998. For those assets which were not revalued in 1998, we identified the total amount of the change in depreciation expense attributable to the 1988 asset revaluation for 2005 (the tax return submitted during the POR). We then multiplied this amount by the tax rate for 2005 to determine the benefit under this program. This is the same approach the Department used in the previous review. *See 2005 CTL Plate Final Results* and the ''Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)'' section of the *2005 CTL Plate I&D Memo*. As this program is not tied to exports, we used the benefit amount as the numerator and DSM's total sales as the denominator. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem*, which, according to the Department's practice, is considered not measurable and is not included in the calculation of the CVD rate. *See 2005 CTL Plate Final Results and 2005 CTL Plate I&D Memo* at 6; *see also*, the ''Other Programs'' section of the Issues and Decision Memorandum that accompanied *2005 Lumber Products Canada*.

C. GOK Infrastructure Investment at Inchon North Harbor

Under the Act on Participation of Private Investment in Infrastructure (the Harbor Act), signed in 2000, the GOK contracts with private companies to construct infrastructure facilities at Inchon North Harbor. The program is designed to encourage private investment in public infrastructure facilities at Inchon North Harbor. The government compensates private parties for a portion of the construction costs of these facilities. In addition, the company is given right to operate the facility for a certain period of time.

Under the Harbor Act, DSM participated in an agreement with the Ministry of Maritime Affairs and Fisheries (MOMAF), under which DSM constructed one of 17 piers at Inchon North Harbor. According to the information submitted by DSM, the construction of the pier was completed in November 2006. Upon completion of this port facility, DSM received free use of harbor facilities at Inchon Port and the right to collect fees from other users of the facility for a period of 50 years. At the end of the 50-year period, operating rights revert to the GOK. Further, under the Harbor Act, the GOK is responsible for compensating DSM for 30 percent of the construction costs of the facility. DSM reported receiving payments from the GOK as reimbursements for construction costs it incurred during the POR.

The Department has previously examined this program. *See* the ''GOK Infrastructure Investment at Inchon North Harbor'' section of the *2005 CTL Plate I&D Memo*, in which we determined that the reimbursements DSM received under the program constitute a direct financial contribution, in the form of grants, and confer a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also determined that the reimbursements DSM received under the program are *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the GOK reported that only a few companies representing limited industries received reimbursements under the program. *See* the ''GOK Infrastructure Investment at Inchon North Harbor'' section of the *2005 CTL Plate I&D Memo*. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailable status of this program. Therefore, we continue to find this program countervailable for same reasons stated in the *2005 CTL Plate Final Results*.

To calculate the benefit under this program, we first summed the amount of payments DSM received each year under the program. In accordance with 19 CFR 351.524(c), we are treating the grants DSM received under the program as non–recurring. Pursuant to 19 CFR 351.524(b)(2), the Department allocates non–recurring benefits provided under a particular subsidy program to the year in which the benefits are received if the total amount approved under the subsidy program is less that 0.5 percent of the relevant sales of the firm in question, during the year in which the subsidy was approved. The GOK provided the total approved amount with the date of approval. For the preliminary results, the Department performed the 0.5 percent test by dividing the grant amount from the GOK at the time of receipt by DSM's total sales at the time of receipt. Because the amounts were less than 0.5 percent of DSM's total sales in the year of receipt, we expensed the grants to the year of receipt. On this basis, we preliminarily determine DSM's net subsidy rate under this program to be 0.29 percent *ad valorem*.

D. Research and Development under Korea Research Association of New Iron and Steelmaking Technology (KANIST) (formerly KNISTRA)

Under this program, companies make contributions to KANIST, which also receives contributions from the GOK. KANIST then contracts with universities and other research institutions. Upon completion of the projects, KANIST shares the results of the research with the companies that participated in the projects.

The Department examined this program in the underlying investigation. In that segment of the proceeding, the Department determined that the GOK, through the Ministry of Commerce, Industry and Energy (MOCIE), provided research and development grants to support numerous projects designed to foster the development of efficient technology for industrial development. *See CTL Plate Investigation*, 64 FR at 73185. We found this program to be specific as the grants were provided directly to respondents and their affiliates that are steel–related, and that the grants provided a financial contribution. *Id. See also* sections 771(5A)(D)(ii) and 771(5)(D)(i) of the Act. Moreover, pursuant to section 771(5)(E) of the Act, the Department determined that the benefit was the amount of the GOK's contribution allocated to the percentage of the company's contribution and was conferred at the time of receipt. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailable status of this program.

DSM reported that it participated in research and development projects coordinated by KANIST. In these projects, DSM and other Korean companies made contributions to KANIST, which also received contributions from the GOK. Specifically, DSM reported that it participated in four research and development projects. The first project deals with the ''Elimination of Accumulated Impurities and Metal Structural Non–detrimental Technology Development.'' DSM and the GOK made contributions to this project from 2002 through 2006. The remaining three projects are dedicated to the development of structural steel. *See* Exhibit D–6–A, Volume II, of DSM's July 30, 2007, questionnaire response; *see also* Exhibit G–4–B of the GOK's July 30, 2007, questionnaire response. Based on the information in DSM's response, we preliminarily determine that the projects aimed at structural steel development are tied to non–subject merchandise. We also preliminarily determine that the remaining research and development project is relevant to the early stages of the steel production process and, therefore, attributable to DSM's total steel sales.

In keeping with the Department's practice, we calculated the benefits related to the project on the ''Elimination of Accumulated Impurities and Metal Structural Non–detrimental Technology Development'' by allocating the GOK's payments based on DSM's contributions to the project. *See 2005 CTL Plate Final Results* and the ''GOK Infrastructure Investment at Inchon North Harbor'' section of the *2005 CTL Plate I&D Memo*. Pursuant to 19 CFR 351.524(b)(2), the Department allocates non–recurring benefits provided under a particular subsidy program to the year in which the benefits are received if the total amount approved under the subsidy program is less that 0.5 percent of the relevant sales of the firm in question, during the year in which the subsidy was approved. However, the GOK and DSM did not provide the total approved amounts or the dates of approval. Therefore, we performed our analysis under 19 CFR 351.524(b)(2) by dividing the grant amounts from the GOK at the time of receipt by DSM's total steel sales at the time of receipt. Using this approach, the calculated percentages in each year were less than 0.5 percent. Therefore, we preliminarily determine that all of the GOK's contributions were expensed in the year of receipt. To calculate the net subsidy rate under the program, we divided the contributions made by the GOK during the POR that were allocated to DSM by DSM's total steel sales during the POR. On this basis, we preliminarily calculate a net subsidy rate for DSM to be less than 0.005 percent *ad valorem*, which, according to the Department's practice, is considered not measurable and is not included in the calculation of the CVD rate. *See 2005 CTL Plate* and the accompanying *2005 CTL Plate I&D Memo* at 6; *see also*, the ''Other Programs'' section of the Issues and Decision Memorandum that accompanied *2005 Lumber Products Canada*.

Programs Preliminarily Found to Be Not Used

1. *Special Cases of Tax for Balanced Development Among Areas (TERCL Articles 41, 42, 43, 44, and 45)* (Reserve for Investment Program)
2. *Electricity Discounts (VRA, VCA, ELR and DLI Programs)*
3. *Price Discount for DSM Land Purchase at Asan Bay*
4. *Local Tax Exemption on Land Outside of Metropolitan Area*
5. *Exemption of Value Added Tax on Anthracite Coal*

Preliminary Results of Review

In accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we preliminarily determine to rescind this review with respect to DSEC based on the absence of shipments of subject merchandise. *See*, *e.g.*, *Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Partial Rescission of Administrative Review*, 65 FR 12209 (March 8, 2000) (unchanged in final results by notice of *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review*, 65 FR 48965 (August 10, 2000)); *Pursulfates From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review*, 65 FR 18963 (April 10, 2000) (unchanged in final results by notice of *Persulfates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review* 65 FR 46691 (July 31, 2000).

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a subsidy rate for DSM for 2006. We preliminarily determine that the total estimated net countervailable subsidy rate for DSM is 0.29 percent *ad valorem* for 2006, which is *de minimis*. *See* 19 CFR 351.106(c)(1).

If the final results of this review remain the same as these preliminary results, the Department will instruct U.S. Customs and Border Protection (CBP), 15 days after the date of publication of the final results, to liquidate shipments of CTL plate from DSM, entered, or withdrawn from warehouse, for consumption from January 1, 2006, through December 31, 2006, without regard to countervailing duties. Also, the Department will instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of CTL plate from DSM, entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order are those established in the most recently completed administrative proceeding. *See CTL Plate Order*, 65 FR 6589. These rates shall apply to all non–

reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309(b)(1), interested parties may submit written arguments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii). Parties who submit written arguments in this proceeding are requested to submit with the written argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 9, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–22672 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Board of Overseers

AGENCY: National Institute of Standards and Technology Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on December 4, 2007. The Board of Overseers is composed of eleven members prominent in the fields of quality and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Report from the Judges' Panel, Baldrige Program Update, Potential Program Changes, Baldrige Program Education and Outreach, Overseers Role in Raising Awareness of the Baldrige Program, and Recommendations for the NIST Director.

DATES: The meeting will convene December 4, 2007, at 8:30 a.m. and adjourn at 3 p.m. on December 4, 2007.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room A, Gaithersburg, Maryland 20899. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Diane Harrison no later than Friday, November 30, 2007, and she will provide you with instructions for admittance. Ms. Harrison's e-mail address is *diane.harrison@nist.gov* and her phone number is (301) 975–2361.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

Dated: November 9, 2007.

Richard F. Kayser,

Acting Deputy Director.

[FR Doc. E7–22670 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD99

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene Public Hearings on an Aquaculture Amendment.

DATES: The public hearings will held from December 10 - 13, 2007 at 5 locations throughout the Gulf of Mexico. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The public meetings will be held in the following locations:

St. Petersburg, FL; Biloxi, MS; Mobile, AL; New Orleans, LA; and Houston, TX. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) is preparing an amendment which will require persons to obtain a permit from NMFS to participate in aquaculture by constructing an aquaculture facility in the exclusive economic zone (EEZ) of the Gulf of Mexico. Each application for a permit must comply with many permit conditions related to record keeping and operation of the facility. These permit conditions will assure the facility has a minimal affect on the environment and on other fishery resources. Compliance with the conditions will be evaluated annually for the duration of the permit as the basis for renewal of the permit for the next year.

The public hearings will begin at 6 p.m. and conclude at the end of public testimony or no later than 9 p.m. at each of the following locations:

•Monday, December 10, 2007, Hilton Houston Hobby Airport, 8181 Airport

Blvd., Houston, TX 77061, telephone: (713) 645–3000;

•Monday, December 10, 2007, Comfort Inn North, 2260 54th Avenue North, St. Petersburg, FL 33714, telephone: (727) 362–0075;

•Tuesday, December 11, 2007, Hilton New Orleans Airport, 901 Airline Drive, New Orleans, LA 70062, telephone: (504) 469–5000;

•Wednesday, December 12, 2007, Wingate Inn, 12009 Indian River, Road, Biloxi, MS 39540, telephone: (228) 396–0036;

•Thursday, December 13, 2007, Ashbury Hotel, 600 Beltline Hwy, Mobile, AL 36608, telephone: (251) 344–8030;

Copies of the Amendment a can be obtained by calling the Council office at (813) 348–1630.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: November 15, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22639 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD98

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, December 3–11, 2007, in Anchorage AK.

DATES: The meetings will be held on December 3, 2007 through December 11, 2007. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Council meeting - Anchorage Hilton Hotel, 500 West 3rd Avenue, Anchorage, Alaska

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. on Wednesday, December 5 continuing through Tuesday December 11, 2007. The Council's Advisory Panel (AP) will begin at 8 a.m., Monday, December 3 and continue through Saturday December 8. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, December 3 and continue through Wednesday December 5, 2007. The Enforcement Committee will meet Tuesday, October 2, from 9 a.m. to 12 p.m. in the Iliamna Room. The Ecosystem Committee will meet 1 p.m. to 5 p.m. in the Iliamna Room. All meetings are open to the public, except executive sessions.

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports

Executive Director's Report

NMFS Management Report (including update on National Bycatch Report, update on 2C rulemaking, report on crab loan program, report on constructive loss issues, Restricted Access Management Division report on crab program)

U.S. Coast Guard Report

Alaska Department of Fish & Game Report (including a report on Board of Fisheries actions, subsistence halibut survey)

U.S. Fish & Wildlife Service Report

Protected Species Report (including 2007 Steller Sea Lion (SSL) survey results, integrated weight groundline seabird deterrence Exempted Fishery Permit (EFP), update on SSL recovery Plan/Biological Opinion/Environmental Impact Statement(EIS))

2. Charter Halibut Management: Committee report on longterm solutions and allocations/reallocation; Review progress on Charter Halibut Allocation/Reallocation and provide direction/refine alternatives as necessary.

3. Bering Sea Aleutian Island (BSAI) Crab Issues: Preliminary review of BSAI 'C' Share active participation; Final action on BSAI Crab 'C' share 90/10 exemption; Final action on BSAI Crab custom processing; Final action on BSAI Crab post-delivery transfers; Review workplan on BSAI Crab 3 year review, action as necessary.

4. Gulf of Alaska (GOA) Groundfish Issues: Progress report on GOA Pacific cod sector split, direction as necessary; Review discussion paper on GOA sideboards; action as necessary; Final action on GOA pollock trip limit; Final action on Central Gulf of Alaska rockfish post-delivery transfers.

5. License Limitation Program (LLP) Trawl Recency: Initial review of EA/RIR/IRFA on alternatives to address modifications to LLP requirements.

6. Amendment 80: Initial review of Amendment 80 post-delivery transfers and rollovers.

7. Observer Program: Initial review Observer Program regulation package.

8. American Fisheries Act (AFA) permit Application: Receive public comment and formulate Council recommendations on Adak Fisheries application for an unrestricted AFA inshore processor permit and formulate Council recommendations.

9. Groundfish Management: BSAI Salmon Workgroup report, review Notice of Intent and refine alternatives; Discussion paper on Vessel Monitoring System exemption for dinglebar gear; Review discussion paper 'Other Species'; Non-target Committee report; Supplemental Information Report on specifications EIS, action as necessary; Final action on groundfish specification and Stock Assessment Fishery Evaluation (SAFE) reports; Review discussion paper on GOA salmon and crab bycatch.

10. Crab Overfishing Definitions; Final action on BSAI crab overfishing definitions.

11. Ecosystem Issues: Update on outreach efforts for Arctic Fishery Management Plan; report from Ecosystem Committee on Aleutian Island Fishery Ecosystem Plan Implementation; Alaska Regional Collaborative Team report.

12. Staff Tasking; Review Committees and tasking, and take action as necessary; Review broader (Programmatic Supplemental Environmental Impact Statement) community outreach plan and actions pursuant to the NMFS Policy on stakeholder participation (pursuant to Government Accounting Office report).

13. Other Business

The SSC agenda will include the following issues:

1. LLP Trawl Recency
2. Amendment 80
3. Observer Program
4. SIR on specifications EIS, action as necessary
5. Final action on groundfish specifications and SAFE reports
6. Crab Overfishing Definition
7. Integrated Groundline Weight EFP; 4E analysis methodology

The Advisory Panel will address the same agenda issues as the Council, except for reports. The Agenda is subject to change, and the latest version will be posted at *http://www.fakr.noaa.gov/npfmc/*.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: November 15, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–22638 Filed 11–19–07; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Notice of Agricultural Advisory Committee Meeting

The Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on Thursday, December 6, 2007. The meeting will take place in the first floor hearing room of the Commission's Washington, DC headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 from 9 a.m. to 4 p.m.Global Commodity Markets and Domestic Regulation; What is an Agricultural Commodity?; and Global Carbon Markets Update.

The meeting is open to the public. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: Agricultural Advisory Committee, c/o Chairman, Michael V. Dunn, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should inform Chairman Dunn in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for oral presentations of no more than five minutes each in duration.

For further information concerning this meeting, please contact Nicole McNair at (202) 418–5070.

Issued by the Commission in Washington, DC, on November 15, 2007.

David Stawick,

Secretary of the Commission.

[FR Doc. E7–22676 Filed 11–19–07; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[(Transmittal No. 08–10)]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–10 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 14, 2007.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

NOV 0 9 2007
In reply refer to:
I-07/010597-CFM

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-10, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost $939 million in accordance with the Taiwan Relations Act, P.L. 96-8. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Taipei Economic and Cultural Representative Office in the United States pursuant to P.L. 96-8

(ii) Total Estimated Value:

Major Defense Equipment*	**$ 4 million**
Other	**$935 million**
TOTAL	**$939 million**

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Upgrade and refurbishment of Taiwan's 3 existing PATRIOT fire units to the latest Army Configuration 3 ground support equipment. MDE includes: 36 AN/VRC-88E SINCGARS EXP Vehicle Short Range Radio Systems; 32 AN/VRC-90E SINCGARS EXP Vehicle Long Range Radio Systems; 4 AN/VRC-91E SINCGARS EXP Long Range Radio Systems; 11 AN/VRC-92E SINCGARS EXP Dual Range Radio Systems; 2 PATRIOT, MIM-104 (Patriot-As-A-Target); Radar Enhancement Phase 3 (REP-3); Classification, Discrimination and Identification Phase 3 (CDI-3); Remote Launch Communication Enhancement Upgrade (RLCEU); and an Electric Power Plant. Non-MDE includes: all necessary modification kits, communication support equipment, tools and test equipment, integration and checkout, spares and repair parts, installation and training, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. Taiwan has also requested 4 telemetry kits for its live fire training.

*** as defined in Section 47(6) of the Arms Export Control Act.**

(iv) **Military Department**: **Army (YYV)**

(v) **Prior Related Cases, if any**: **none**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: **none**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: **See Annex attached**

(viii) **Date Report Delivered to Congress**: NOV 0 9 2007

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States – PATRIOT Advanced Capability-3 (PAC-3) Guided Missiles

The Taipei Economic and Cultural Representative Office in the United States has requested a possible sale of upgrade and refurbishment of Taiwan's 3 existing PATRIOT fire units to the latest Army Configuration 3 ground support equipment. MDE includes: 36 AN/VRC-88E SINCGARS EXP Vehicle Short Range Radio Systems; 32 AN/VRC-90E SINCGARS EXP Vehicle Long Range Radio Systems; 4 AN/VRC-91E SINCGARS EXP Long Range Radio Systems; 11 AN/VRC-92E SINCGARS EXP Dual Range Radio Systems; 2 PATRIOT, MIM-104 (Patriot-As-A-Target); Radar Enhancement Phase 3 (REP-3); Classification, Discrimination and Identification Phase 3 (CDI-3); Remote Launch Communication Enhancement Upgrade (RLCEU); and an Electric Power Plant. Non-MDE includes: all necessary modification kits, communication support equipment, tools and test equipment, integration and checkout, spares and repair parts, installation and training, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. Taiwan has also requested 4 telemetry kits for its live fire training. The estimated cost is $939 million.

This proposed sale serves U.S. national economic and security interests by supporting the recipient's continuing efforts to modernize its armed forces and enhance its defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, and economic progress in the region.

This sale is consistent with United States law and policy as expressed in Public Law 96-8. The U.S. is committed to providing military assistance under the terms of the Taiwan Relations Act.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the recipient.

The prime contractor will be Raytheon Corporation, Andover, MA. Although the purchaser generally requires offsets, at this time, there are no known offset agreements proposed in connection with this potential sale.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The PATRIOT Air Defense System contains critical/sensitive technology and classified Confidential components. The Configuration 3 upgrade represents significant technological advances for the existing PATRIOT system capabilities. The Configuration 3 sensitive/critical technology is primarily in the area of design and production know-how and primarily inherent in the design, development, and/or manufacturing data related to certain critical components. Information on operational effectiveness with respect to electronic countermeasures and counter-counter measures, low observable technologies, select software documentation and test data are classified up to and including Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 07–5756 Filed 11–19–07; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 08–14]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–14 with attached transmittal, and policy justification.

Dated: November 13, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

NOV 0 8 2007

In reply refer to:
I-07/011490-CFM

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-14, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Kuwait for defense articles and services estimated to cost $90 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Jeffrey A. Wieringa
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-14

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

(i) Prospective Purchaser: Kuwait

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 90 million
TOTAL	$ 90 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: continuing logistics support, contractor maintenance, and technical services in support of the F/A-18 aircraft to include contractor engineering technical services, contractor maintenance support, avionics software, engine component improvement and spare parts, technical ground support equipment, spare and repair parts, supply support, publications and technical data, engineering change proposals, U.S. Government and contractor technical and logistics personnel services and other related elements of program support.

(iv) Military Department: Navy (GFZ)

(v) Prior Related Cases, if any: numerous cases dating back to 1995

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: NOV 08 2007

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kuwait - Technical/Logistics Support for F/A-18 Aircraft

The Government of Kuwait has requested a possible sale of continuing logistics support, contractor maintenance, and technical services in support of the F/A-18 aircraft to include contractor engineering technical services, contractor maintenance support, avionics software, engine component improvement and spare parts, technical ground support equipment, spare and repair parts, supply support, publications and technical data, engineering change proposals, U.S. Government and contractor technical and logistics personnel services and other related elements of program support. The estimated cost is $90 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The Government of Kuwait needs this logistics support, contractor maintenance, and technical services to maintain the operational capabilities of its aircraft.

The contractor maintenance and training technical services will not alter the basic military balance in the region.

The principal contractors are: Boeing Company of St. Louis, Missouri; and General Dynamics of Fairfax, Virginia. Although the purchaser generally requires offsets, at this time, there are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any U.S. Government or contractor representatives to Kuwait.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 07–5757 Filed 11–19–07; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Advisory Committee

AGENCY: Department of Defense, Defense Policy Board Advisory Committee

ACTION: Notice.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on December 11, 2007 from 0800 hrs until 2030 and December 12, 2007 from 0730 hrs until 1430 at the Pentagon.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. 552B(c)(1)(1982)], and that accordingly this meeting will be closed to the public.

Dated: November 14, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–5755 Filed 11–19–07; 8:45 am]
BILLING CODE 5000–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Nuclear Weapons Surety will meet in closed session on *December 3–4, 2007* at the Institute for Defense Analyses, 4850 Mark Center Drive, Alexandria, VA.

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

The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decisionmaker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the December 3–4, 2007, meeting are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below; at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. David McDarby, HQ DTRA/OP–CSNS, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060; via e-mail at *david.mcdarby@dtra.mil*; or via phone at (703) 767–4364.

Dated: November 14, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–22643 Filed 11–19–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Improvised Explosive Devices (IEDs) Part II will meet in closed session on December 11–12, 2007, at Strategic Analysis, Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force members will discuss interim findings and recommendations resulting from ongoing Task Force activities. The Task Force will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will act as an independent sounding board to the Joint IED organization by providing feedback at quarterly intervals; and develop strategic and operational plans, examining the goals, processes, and substance of the plans.

The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce the **Federal Register** when the findings and recommendations of the December 11–12, 2007, meeting are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTRACT: MAJ Chad Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

Dated: November 14, 2007.

L.M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–22644 Filed 11–19–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Finding

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality regulations (40 CFR parts 1500–1508), implementing procedural provisions of NEPA, the Department of the Navy (DON) gives notice that a Finding of No Significant Impact (FONSI) has been issued and is available for Expeditionary Strike Group Composite Training Unit Exercise (ESG COMPUTEX) (November/December 2007). In addition, pursuant to Executive Order (EO) 12114, Environmental Effects Abroad of Major Federal Actions, a Finding of No Significant Harm (FONSH) has been issued and is available for ESG COMPUTEX (November/December 2007).

DATES: The effective date of the finding is October 25, 2007.

ADDRESSES: Electronic copies of the FONSI and FONSH are available for public viewing or downloading at *http://www.navydocuments.com.*

FOR FURTHER INFORMATION CONTACT: Commander, Second Fleet Public Affairs, Commander Phillips, tel 757–

443–9822 or visit *http://www.navydocuments.com.*

SUPPLEMENTARY INFORMATION: ESG COMPTUEX (November/December 2007) is a major Navy Atlantic Fleet training exercise proposed to occur in November and December 2007 in the offshore Virginia Capes, Cherry Point, and Charleston Operating Areas (OPAREAs) and adjacent military installations. The purpose of this exercise is to certify naval forces as combat-ready. Activities conducted during the exercise include air-to-ground bombing at land ranges, amphibious landings, mine warfare exercises, gunnery exercises, small craft interdiction operations, maritime interdiction operations, and anti-submarine warfare, including use of mid-frequency active (MFA) sonar.

The FONSI is based on analysis contained in a Comprehensive Environmental Assessment (EA) addressing environmental impacts associated with land-based training for Major Atlantic Fleet Training Exercises on the East and Gulf Coasts of the U.S. The FONSH is based on analysis contained in a Comprehensive Overseas Environmental Assessment (OEA) and Supplement to the Comprehensive OEA (SOEA) for environmental impacts associated with Navy's conduct of major exercise training in offshore operating areas along the East and Gulf Coasts of the U.S. Environmental concerns addressed in the EA included land use, community facilities, coastal zone management, socioeconomics, cultural resources, airspace, air quality, noise, geology, soils, water resources, biological resources, munitions and hazardous materials management, and safety. The OEAs addressed potential impacts to the ocean physical environment, fish and Essential Fish Habitat; sea turtles and marine mammals; seabirds and migratory birds; endangered and threatened species; socioeconomics; and cultural resources. The SOEA included an updated analysis of MFA sonar use and gunnery use associated with ESG COMPTUEX (November/December 2007).

This action includes mitigation measures to reduce impacts to a level that is less than significant. Based on information gathered during preparation of the Major Atlantic Fleet Training Exercise EA and OEA and the SOEA and the evaluation of the nature, scope and intensity of the proposed action, the Navy finds that the conduct of the ESG COMPUTEX (November/December 2007) will not significantly impact or harm the environment and, therefore, an Environmental Impact Statement or Overseas Environmental Impact Statement is not required.

Dated: November 14, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–22645 Filed 11–19–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Migrant Education Program Consortium Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education proposes to add an eighth absolute priority to the seven absolute priorities for the Migrant Education Program (MEP) Consortium Incentive Grant (CIG) Program established in the notice of final requirements published in the **Federal Register** on March 3, 2004 (69 FR 10110) (Notice). The Assistant Secretary may use this proposed absolute priority and the absolute priorities established in the Notice for competitions in fiscal year (FY) 2008 and later years. We take this action to give State educational agencies the option to propose consortium arrangements that would address the educational attainment needs of out-of-school migratory youth whose education is interrupted.

DATES: We must receive your comments on or before December 20, 2007.

ADDRESSES: Address all comments about this proposed priority to Lisa Gillette, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E253, LBJ, Washington, DC 20202–6135. If you prefer to send your comments through the Internet, use the following address: *lisa.gillette@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Lisa Gillette. Telephone: (202) 205–0316 or via Internet: *lisa.gillette@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 3E253 at the U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Background

The MEP CIG Program is authorized under section 1308(d) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA). The CIG Program provides, on a competitive basis, incentive grants to the State educational agencies (SEAs) receiving MEP Basic Formula Grant awards that participate in high-quality consortium arrangements with another State or appropriate entity. The purpose of these grants is to improve the delivery of services to migratory children whose education is interrupted.

In the Notice, the Department established seven absolute priorities that promote key national objectives. SEAs that sought funding under the CIG had to propose a consortium that addressed one or more of these absolute priorities. These seven absolute priorities are:

(1) Services designed to improve the proper and timely identification and recruitment of eligible migratory children whose education is interrupted;

(2) Services designed (based on a review of scientifically based research) to improve the school readiness of pre-school-aged migratory children whose education is interrupted;

(3) Services designed (based on a review of scientifically based research) to improve the reading proficiency of migratory children whose education is interrupted;

(4) Services designed (based on a review of scientifically based research) to improve the mathematics proficiency of migratory children whose education is interrupted;

(5) Services designed (based on a review of scientifically based research) to decrease the dropout rate of migratory students whose education is interrupted and improve their high school completion rate;

(6) Services designed (based on a review of scientifically based research) to strengthen the involvement of migratory parents in the education of migratory students whose education is interrupted; and

(7) Services designed (based on a review of scientifically based research) to expand access to innovative educational technologies intended to increase the academic achievement of migratory students whose education is interrupted.

In the past few years, the Department has noticed an increasing trend in the numbers of out-of-school migratory youth (typically ages 15–22) eligible for the MEP. Often, these young men and women have received limited schooling or have dropped out of high school before earning their diploma or general education development (GED) certificate. Due to their long work hours, the short periods of time that they remain in an area, and the remote locations, away from educational facilities, where they live and work, these out-of-school migratory youth are often the most difficult for SEAs to serve.

The seven absolute priorities established in 2004 do not specifically authorize CIG Program awards for consortium arrangements designed to improve the educational attainment of these out-of-school migratory youth. Given the particular educational needs of this sector of the migrant population, the Department proposes a new, eighth absolute priority under the CIG Program for consortium arrangements that would address out-of-school migratory youth whose education is interrupted. Thus, the proposed change would allow SEAs, based on the needs of migratory children in their respective consortium States, to seek CIG Program funding for consortium activities that would address any one or more of these eight absolute priorities.

We will announce the final priority in a notice in the ***Federal Register****. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements. This final priority will be in addition to the seven absolute priorities published in the Notice.*

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**.

Priority: Services designed (based on a review of scientifically based research) to improve the educational attainment of out-of-school migratory youth whose education is interrupted.

Executive Order 12866

This notice of proposed priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, we have determined that the benefits of the proposed priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of potential costs and benefits: The addition of this proposed absolute priority will not increase the costs to the SEAs applying for consortium awards. The CIG Program is a competitive program for which SEAs may choose to apply. The only eligible applicants for the CIG Program are SEAs receiving MEP Basic State Formula grants under Title I, Part C of the ESEA. Under the MEP Basic State Formula program, SEAs are required to promote interstate and intrastate coordination of services for migratory children. Under the CIG Program, successful applicants receive awards in the form of supplements to their MEP awards. SEAs may use these newly awarded funds to pay for any costs they incur under the MEP—including costs of consortium activities described in their CIG Program applications.

If finalized, this absolute priority will not create any new costs. In preparing the application package for the CIG Program, the Department estimated that SEAs would prepare a total of 15 applications and expend, over a two-year application cycle, 50.67 hours per application. The Department believes that the proposed absolute priority will not add to the costs of implementing the MEP. SEAs should take no more time to prepare a CIG application that addresses the proposed absolute priority than to prepare an application that addresses one of the seven existing absolute priorities. Further, the Department does not anticipate that the addition of this absolute priority will generate an increase in the number of applications it will receive.

On the other hand, the proposed absolute priority will provide significant benefits. It will give SEAs the opportunity to seek these supplemental MEP funds on the basis of consortium activities that address an important new area—the educational attainment of out-of-school migratory youth whose education is interrupted. In this regard, out-of-school migratory youth typically have received limited schooling or have dropped out of high school without attaining a high school diploma or GED certificate. Adding this new absolute priority to the seven existing absolute priorities for the CIG Program can thereby help out-of-school migratory youth improve their educational attainment.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.144 Migrant Education Coordination Program).

Program Authority: 20 U.S.C. 6398(d).

Dated: November 5, 2007.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E7–22680 Filed 11–19–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–416–004]

Northwest Pipeline GP; Notice of Compliance Filing

November 9, 2007.

Take notice that on October 31, 2007, Northwest Pipeline GP (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 2008:

Seventeenth Revised Sheet No. 7
First Revised Sheet No. 7–A

Northwest states that the filing is being made in compliance with the Commission's order issued on February 5, 2007 in Docket No. CP06–416–000.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests 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 to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time November 15, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22618 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–1378–000]

Providence Heights Wind, LLC; Notice of Issuance of Order

November 13, 2007.

Providence Heights Wind, LLC (Providence) 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, capacity and ancillary services at market-based rates. Providence also requested waivers of various Commission regulations. In particular, Providence requested that the Commission grant blanket approval under 18 C.F.R. Part 34 of all future issuances of securities and assumptions of liability by Providence.

On November 9, 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 Providence, 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 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is December 10, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Providence 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 Providence, 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 Providence'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. E7–22623 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER07–1303–000; ER07–1303–001; ER07–1303–002]

PS Energy Group, Inc.; Notice of Issuance of Order

November 13, 2007.

PS Energy Group (PS Energy) 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. PS Energy also requested waivers of various Commission regulations. In particular, PS Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PS Energy.

On November 9, 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 PS Energy, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is December 10, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, PS Energy 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 PS Energy, 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 PS Energy'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. E7–22625 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–392–001]

Texas Eastern Transmission, LP; Notice of Application

November 13, 2007.

Take notice that on November 1, 2007, Texas Eastern Transmission, LP (''Texas Eastern''), 5400 Westheimer Court, Houston, Texas 77056–5310, filed with the Federal Energy Regulatory Commission an application under section 7 of the Natural Gas Act to amend the Certificate of Public Convenience and Necessity issued to Texas Eastern on February 22, 2006, for the Accident Storage Enhancement Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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.

Any questions regarding this application should be directed to Garth Johnson, Director, Certificates and Reporting, Texas Eastern Transmission, LP, 5400 Westheimer Court, Houston, Texas 77251 at (713) 627–5415.

Pursuant to section 157.9 of the Commission's rules, 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 will remain in place to be used as a warehouse facility for pipe, equipment and supplies.

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 an 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 23, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22626 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–34–004]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

November 9, 2007.

Take notice that on November 7, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Nineteenth Revised Sheet No. 40L, First Revised Sheet No. 40Q and Original Sheet No. 40R, to become effective December 8, 2007.

Transco states that the filing is being made in compliance with the Commission's order issued on October 13, 2007 in the above reference proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests 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 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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time November 15, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22622 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–8–000]

Mirant Energy Trading, LLC, Mirant Chalk Point, LLC, Mirant Mid-Atlantic, LLC, Mirant Potomac River, LLC, Complainants, v. PJM Interconnection, L.L.C., Respondent; Notice of Complaint

November 9, 2007.

Take notice that on November 8, 2007, Mirant Energy Trading, LLC, Mirant Chalk Point, LLC, Mirant Mid-Atlantic, LLC, and Mirant Potomac River, LLC (collectively, Mirant Parties) filed a formal complaint against PJM Interconnection, Inc. L.L.C. (PJM) pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e), 825(e) and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 CFR 385.206, alleging that certain provisions of PJM's Open Access Transmission Tariff implementing PJM's Reliability Pricing Model (RPM) are unjust and unreasonable, and requesting that the Commission direct PJM to modify the definition of ''Opportunity Cost'' with respect to the Third Incremental Auction under RPM.

The Mirant Parties certify that copies of the complaint were served on the contacts for PJM as listed on the Commission's list of Corporate Officials, as well as on persons designated on the official service list.

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 29, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22619 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 13, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–12–000.

Applicants: Airtricity Munnsville Wind Farm, LLC; E.ON AG.

Description: E ON Ag and Airtricity Munnsville Wind Farm, LLC submits a joint application for authorization for disposition of jurisdictional facilities.

Filed Date: 11/06/2007.

Accession Number: 20071108–0275.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–14–000.

Applicants: Barton Chapel Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Gamesa Technology Corporation.

Filed Date: 11/08/2007.
Accession Number: 20071108–5045.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Docket Numbers: EG08–15–000.
Applicants: James River Cogeneration Company.
Description: James River Cogeneration Co's Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/09/2007.
Accession Number: 20071109–5037.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: EG08–16–000.
Applicants: Cogentrix Virginia Leasing Corporation.
Description: Cogentrix Virginia Leasing Corp's Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/09/2007.
Accession Number: 20071109–5039.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: EG08–17–000.
Applicants: Primary Energy of North Carolina LLC.
Description: Exempt Wholesale Generator Notice of Self-Certification.
Filed Date: 11/09/2007.
Accession Number: 20071109–5054.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–478–017; ER06–200–010; ER07–254–002; ER03–1326–010; ER07–460–001; ER05–534–011; ER05–365–011; ER05–1262–009; ER06–1093–005; ER03–296–013; ER01–3121–012; ER02–418–011; ER03–416–014; ER05–332–011; ER07–287–004; ER07–242–004; ER03–951–013; ER04–94–011; ER02–417–011; ER07–1378–001; ER05–1146–011; ER05–481–011; ER07–240–005; ER07–195–002; ER02–2085–006.
Applicants: PPM Energy Inc.; Big Horn Wind Project LLC; Casselman Windpower, LLC; Colorado Green Holdings, LLC; Dillon Wind LLC; Eastern Desert Power LLC; Elk River Windfarm LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; Flying Cloud Power Partners, LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power LLC; Klondike Wind Power LLC; Klondike Wind Power III LLC; MinnDakota Wind LLC; Moraine Wind LLC; Mountain View Power Partners III, LLC; Phoenix Wind Power LLC; Providence Heights Wind, LLC; Shiloh I Wind Project LLC; Trimont Wind I LLC; Twin Buttes Wind LLC; Locust Ridge Wind Farm, LLC; Northern Iowa Windpower LLC.
Description: Notification of Change in Status of PPM Energy, Inc., *et al.*
Filed Date: 11/09/2007.
Accession Number: 20071109–5035.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: ER03–506–003; ER06–1515–001; ER08–1–000.
Applicants: TXU Portfolio Management Company LP; Yuma Power Limited Liability Company.
Description: Notice of Change in Status Pursuant to Order Nos. 652 and 697 and Submission of Revised Rate Schedule Sheets of Luminant Energy Company LLC.
Filed Date: 11/09/2007.
Accession Number: 20071109–5091.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: ER07–157–002.
Applicants: Macquarie Cook Power, Inc.
Description: Macquarie Cook Power Inc. Notice of Affiliate Treatment for Purposes of the Affiliate Restrictions in 18 CFR Section 35.39.
Filed Date: 11/09/2007.
Accession Number: 20071108–5070.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: ER07–671–004.
Applicants: Trigen-St. Louis Energy Corporation.
Description: Trigen-St. Louis Energy Corporation submits its revised pages to its FERC Electric Rate Schedule 1.
Filed Date: 11/07/2007.
Accession Number: 20071109–0015.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 28, 2007.

Docket Numbers: ER08–194–000.
Applicants: Duquesne Light Company.
Description: Duquesne Light Company requests that FERC approve the termination of its membership as a transmission owner and load-serving entity in PJM Interconnection, LLC etc.
Filed Date: 11/08/2007.
Accession Number: 20071109–0044.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–103–001.
Applicants: Portland General Electric Company.
Description: Portland General Electric Company amended filing Attachment C—''Methodology to Assess Available Transmission Capability.''
Filed Date: 11/07/2007.
Accession Number: 20071107–5065.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 28, 2007.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–4–000.
Applicants: Texas Energy Future Capital Holdings LLC.
Description: FERC Form 65 B Waiver Notification of Texas Energy Future Capital Holdings LLC.
Filed Date: 11/09/2007.
Accession Number: 20071109–5026.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: PH08–5–000.
Applicants: TPG Partners V L.P.,TPG Partners IV L.P.,TPG FOF V–A, L.P.,TPG FOF V-B, L.P.
Description: FERC Form 65 B Waiver Notification of TPG Partners V L.P., *et al.*
Filed Date: 11/09/2007.
Accession Number: 20071109–5064.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: PH08–6–000.
Applicants: The Goldman Sachs Group, Inc.
Description: FERC Form 65 B Waiver Notification of The Goldman Sachs Group, Inc.
Filed Date: 11/09/2007.
Accession Number: 20071109–5077.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: PH08–7–000.
Applicants: KKR 2006 Fund; KKR PEI Investments, L.P.; KKR Partners III, L.P.
Description: FERC Form 65 B Waiver Notification of KKR 2006 Fund, *et al.*
Filed Date: 11/09/2007.
Accession Number: 20071109–5080.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR08–2–000.
Applicants: North American Electric Reliability Corp.
Description: North American Electric Reliability Corp *et al.* submits its request for approval of proposed revisions to the WECC bylaws and request for clarification under RR08–2.
Filed Date: 11/02/2007.
Accession Number: 20071107–0171.
Comment Date: 5 p.m. Eastern Time on Monday, December 03, 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 email 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.,

Deputy Secretary.

[FR Doc. E7–22651 Filed 11–19–07; 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 received the following electric rate filings:

Docket Numbers: ER01–205–023, ER98–2640–021, ER98–4590–019, ER99–1610–027.

Applicants: Xcel Energy Services Inc.; Northern States Power Company and Northern States Power Company (Wisconsin); Public Service Company of Colorado; Southwestern Public Service Company.

Description: Xcel Energy Services Inc *et. al*; submit a change in status report relating to the market-based rate authority.

Filed Date: 10/30/2007.

Accession Number: 20071105–0148.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 20, 2007.

Docket Numbers: *ER03–583–007*; ER03–681–005; ER03–682–006; ER03–744–005.

Applicants: Entergy Services, Inc.

Description: Entergy Services Inc on behalf of Entergy Operating Companies *et. al*, submits its compliance filing.

Filed Date: 11/06/2007.

Accession Number: 20071108–0021.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER05–644–000.

Applicants: PSEG Energy Resources & Trade LLC; PSEG Fossil LLC.

Description: Informational Filing regarding Planned Project Investments of PSEG Fossil LLC, and PSEG Energy Resources & Trade LLC *et. al.*

Filed Date: 11/05/2007.

Accession Number: 20071105–5066.

Comment Date: 5 p.m. Eastern Time on Monday, November 26, 2007.

Docket Numbers: ER07–1221–003.

Applicants: Rensselaer Cogeneration LLC.

Description: Rensselaer Cogeneration LLC submits a notice of succession and triennial update market power analysis.

Filed Date: 11/06/2007.

Accession Number: 20071108–0273.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER07–1278–002.

Applicants: Alpha Energy Master, Ltd.

Description: Alpha Energy Master, Ltd submits Substitute Original Sheet No. 1 and 2 of a tariff.

Filed Date: 11/06/2007.

Accession Number: 20071107–0116.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER08–2–000, ER08–196–000.

Applicants: Avista Corporation.

Description: Avista Corp and NorthWestern Corp submits a non-conforming Long-Term Service Agreements, FERC Electric Rate Schedule 484 and FERC Electric Rate Schedule 248.

Filed Date: 10/01/2007.

Accession Number: 20071003–0033.

Comment Date: 5 p.m. Eastern Time on Friday, November 23, 2007.

Docket Numbers: ER08–190–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc submits its informational filing for qualification in the Forward Capacity Market.

Filed Date: 11/06/2007.

Accession Number: 20071108–0279.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Docket Numbers: ER08–191–000.

Applicants: Aquila, Inc.

Description: Aquila, Inc submits an Amended and Restated Coordinating Agreement for the Cooper-Fairport—St Joseph 354 kV Interconnection with Associated Electric Coop, Inc.

Filed Date: 11/06/2007.

Accession Number: 20071108–0272.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER08–192–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits a Petition for Approval of Agreement.

Filed Date: 11/06/2007.

Accession Number: 20071108–0271.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 27, 2007.

Docket Numbers: ER08–195–000.

Applicants: ISO New England Inc.

Description: Filing of ISO New England, Inc of Revised Tariff Sheets for Recovery of its 2008 Administrative Costs.

Filed Date: 10/31/2007.

Accession Number: 20071102–0121.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 21, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Acting Deputy Director.

[FR Doc. E7–22652 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2237–017]

Georgia Power Company; Notice of Availability of Environmental Assessment

November 9, 2007.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a New Major License for the Morgan Falls Hydroelectric Project.

The Morgan Falls Project is located in the metropolitan city of Atlanta area on the Chattahoochee River, at river mile 312.6, and about 36 miles downstream from the U.S. Army Corps of Engineers' Buford dam (Lake Sidney Lanier) in Cobb and Fulton Counties, Georgia. The project occupies about 14.4 acres of federal lands within the Chattahoochee River National Recreation Area managed by the National Park Service. Staff has prepared an Environmental Assessment (EA) for the project.

In the EA Commission, staff analyzed the potential environmental effects of relicensing the project and concludes that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA 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.

Any comments should be filed within 30 days from the date of this notice and should be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 2237–017 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. Project No. P–2237–017.

For further information, please contact Janet Hutzel at (202) 502–8675 or at *janet.hutzel@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22621 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–405–000]

Texas Gas Transmission, LLC; Notice of Availability of the Environmental Assement for the Proposed Phase 3 Storage Expansion Project

November 13, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Texas Gas Transmission, LLC (Texas Gas) in the above-referenced docket. Texas Gas proposes to increase the storage capacity of its existing Midland Storage Field by constructing facilities in Hanson and Muhlenberg Counties, Kentucky.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act of 1969. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Phase 3 Storage Expansion Project, which includes the following wells, pipeline facilities, and expansion/modifications of existing compressor stations:

Midland Gas Storage Field

- Seven new injection/withdrawal wells;
- Six new well pads;
- 80-foot-tall radio tower on an 8-foot by 8-foot concrete pad and 6-foot by 6-foot shelter;

Pipeline Facilities

- 10.5 miles of 30-inch-diameter pipeline from Texas Gas' Hanson Compressor Station to its Midland III Compressor Station;
- Construct 2,900 feet of 16-inch-diameter pipeline extending Texas Gas existing E–9 Lateral pipeline;
- Construct 8 well laterals ranging from 8 to 12 inches in diameter and 450 to 3,000 feet in length;

Midland III Compressor Station

- A new turbine/compressor building;
- A new 5,488 horsepower turbine-driven compressor, including ancillary equipment;
- Control system modifications to allow two existing 1,250-horsepower electric-driven compressors to operate at 1,500-horsepower;
- Retirement of two 2,000-horsepower reciprocating compressor units
- Piping modifications and appurtenant facilities;

Slaughters Compressor Station

- Modification of the existing 12,090-horsepower turbine-driven compressor for a new suction and discharge pressure; The purpose of the proposed Phase 3 Storage Expansion Project is to expand the daily withdrawal and seasonal storage capability of the Midland Gas Storage Field located in Muhlenberg County, Kentucky.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426.

Copies of the EA have been mailed to pertinent agencies, libraries and newspapers, parties to this proceeding, and those who have expressed an interest in this project by returning the July 23, 2007, *Notice of Intent to Prepare an Environmental Assessment for the Proposed Texas Gas Storage Expansion Project Phase 3 and Request for Comments on Environmental Issues* mailer, as directed.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Branch 1, PJ–11.1;
- Reference Docket No. CP07–405–000; and
- Mail your comments so that they will be received in Washington, DC on or before December 14, 2007.

The Commission strongly encourages electronic filing of any comments, interventions, or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions of the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's guide. Before you can file comments you will need to create a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision. Anyone may intervene in this proceeding based on this EA. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion of filing comments electronically.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP07–405). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notifications of these filings, document summaries and direct links to the documents. Go to the eSubscription link on the FERC Internet website.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22624 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF08–3–000]

White River Hub, LLC; Notice of Intent To Prepare an Environmental Assessment for the White River Hub Project and Request for Comments oOn Environmental Issues

November 9, 2007.

The Federal Energy Regulatory Commission (FERC or Commission) and the U.S. Department of the Interior's Bureau of Land Management (BLM) are evaluating the White River Hub Project, planned by White River Hub, LLC (White River). The project includes construction of about 6.5 miles of new pipeline and related facilities; a new compressor station; and acquisition of about 3 miles of existing pipeline, all in Rio Blanco County, Colorado. As part of this evaluation, the Commission staff (as the lead federal agency for satisfying the requirements of the National Environmental Policy Act of 1969 [NEPA]) will prepare an environmental assessment (EA) to identify and address environmental impacts that could result from construction and operation of the project. The EA will be prepared with the assistance and cooperation of the BLM's White River Field Office staff in Meeker, Colorado. The Commission and the BLM (Agencies) will use the EA in their respective decision-making processes to determine whether to authorize the planned project.

This Notice describes the project-related facilities and explains the scoping process that the Agencies will use to gather input from the public and interested agencies on the planned project. Your input will help determine the issues that need to be addressed in the EA. **PLEASE NOTE THAT THE SCOPING PERIOD FOR THE PLANNED PROJECT WILL CLOSE ON DECEMBER 10, 2007.**

This Notice is being sent to federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern. To ensure that your comments are considered, please follow the instructions in the *Public Participation* section below.

With this Notice, we[1] are asking other federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues in the project area to formally cooperate with us in the preparation of this EA. These agencies may choose to participate once they have evaluated the planned project relative to their responsibilities. Entities that would like to request cooperating agency status should follow the instructions for filing comments described in the *Public Participation* section of this Notice.

If you are a landowner receiving this Notice, you may be contacted by a White River representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline facilities. The pipeline company would seek to negotiate a mutually acceptable agreement to cover

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

the easement, damages that may occur during construction, and any other issues raised by the landowner. The Commission encourages pipeline companies to acquire as much of the right-of-way (ROW) as possible by negotiation with the landowners. If the FERC approves the project, that approval will convey with it the right of eminent domain to secure easements for the facilities. Eminent domain is intended for use when easement negotiations fail to produce an agreement. In such instances, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain for pipeline facilities and how to participate in the FERC's proceedings.

Summary of the Planned Project

White River plans to construct and operate the following facilities:

• About 6.5 miles of 30-inch-diameter pipeline, extending westward from the Greasewood Hub and a new interconnection (''tie-in'') with an existing 36-inch-diameter pipeline owned by Enterprise Products Operating LLC (Enterprise) near the Piceance Creek;

• A new tie-in with the Enterprise pipeline, including pig [2] launching/receiving facilities and a new access road from County Road 5;

• A new meter station at the Greasewood Hub end of the new pipeline, including a common header for interconnections with existing gas transporters at the Hub and pig launching/receiving facilities; and

• Other appurtenant facilities.

Within the fenced area of the new meter station, Questar Pipeline Company (Questar) would construct and operate new compression facilities consisting of up to three reciprocating engine-driven compressors totaling 7,700 horsepower. Equipment related to the compressor station would include gas coolers, a standby generator, and buildings to house the compressors and generators. While Questar would construct the compression facilities under its FERC-issued Blanket Certificate, potential impacts would be addressed in the EA.

[2] A pipeline ''pig'' is a device to clean or inspect the pipeline internally. A pig launcher/receiver is an aboveground facility where pigs are inserted or retrieved from the pipeline.

White River would also acquire from Enterprise about 3 miles of 36-inch-diameter pipeline, extending between Enterprise's existing natural gas processing plant and the Rockies Express Compressor Station. All of the planned and existing facilities that constitute the White River Hub Project would be located in Rio Blanco County, Colorado. The general location of the project is shown in appendix 1.

Land Requirements for Construction

White River's pipeline construction design includes a 100-foot-wide ROW. The wide construction ROW would enable White River to store topsoil stripped from the full ROW separate from subsoils removed from the trench. At some locations, this width would be increased to 125–150 feet to accommodate rugged terrain, steep side-slopes, foreign pipeline crossings, access approaches, etc. Additional temporary extra workspace would also be required where the planned pipeline crosses roads and foreign utilities. Construction of the planned pipeline would disturb about 100 acres.

The 50-foot-square Enterprise tie-in would require about 0.3 acre during construction, while construction of the meter station at the Greasewood Hub would take place within the planned 4.6-acre permanent site. With the exception of the 25-foot-wide by 400-foot-long (0.2 acre) new access road to the Enterprise tie-in, existing access roads would be used to construct the new pipeline. Of these roads, about 3 miles would have to be upgraded to handle construction vehicles (totaling about 9 acres of temporary disturbance). Finally, truck ramps would be constructed where the new pipeline crosses County Road 5 (0.5 acre of temporary disturbance). Overall, construction is estimated to temporarily disturb about 114 acres, not including pipe storage and contractor yards which have yet to be located.

Following construction, White River plans to maintain a 50-foot-wide permanent ROW for the new pipeline. In addition to the new access road to the Enterprise tie-in facility and the new meter station at Greasewood, land permanently affected by the planned White River Hub Project would total about 44 acres.[3] All temporary workspaces outside the permanent ROW would be restored and allowed to revert to current uses.

[3] Because the tie-in would be sited entirely within the existing Enterprise ROW, this facility would not contribute to the land area permanently affected.

The EA Process

We are preparing this EA to comply with NEPA, which requires the Commission to take into account the environmental impacts that could result if it authorizes White River's planned project. NEPA also requires us to discover and address concerns the public may have about proposal. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues and reasonable alternatives. With this Notice, we are requesting public comments on the scope of the issues to be addressed in the EA. All comments received will be considered during preparation of the EA.

The EA will present our independent analysis of the issues. Depending upon the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, potentially affected landowners, newspapers and libraries in the project area, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all timely comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the *Public Participation* section below.

Although no formal application has been filed with the FERC, we have already initiated our NEPA review under the Commission's Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please follow these instructions:

• Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;

• Label one copy of your comments for the attention of Gas Branch 1, DG2E;

• Reference Docket No. PF08–3–000 on the original and both copies; and

• Mail your comments so that they will be received in Washington, DC on or before December 10, 2007.

If you submit comments by mail, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. However, the Commission strongly encourages electronic filing of any comments in response to this Notice. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide, as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can file comments you will need to create a free account, which can be accomplished on-line.

We may mail the EA for comment. If you are interested in receiving it, please return the Mailing List Return Mailer (appendix 2). If you do not return the Return Mailer, you will be taken off the mailing list.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, select ''General Search'' and enter the project docket number excluding the last three digits (*i.e.*, PF06–14) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail at *FercOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called e-Subscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Any public meetings or site visits for this project will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, White River has established an Internet Web site for this project at *http://www.questarpipeline.com.* The Web site includes a description of the project and the Commission's pre-filing review process, instructions on how the public may participate in the project review, and public libraries where project-related information will be made available. You can also request additional information or provide comments directly to White River at (800) 366–8532.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22617 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–11879–002]

Symbiotics, LLC; Notice of Settlement Agreement and Soliciting Comments

November 9, 2007.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–11879–002.

c. *Date filed:* October 26, 2007.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Chester Diversion Hydroelectric Project.

f. *Location:* On Henry's Fork of the Snake River, near the Town of Rexburg, in Fremont County, Idaho. The project would occupy 2 acres of U.S. Bureau of Reclamation (BOR) land.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834 or Dr. Vincent A. Lamarra, Ecosystems Research Institute, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

i. *FERC Contact:* Emily Carter at (202) 502–6512, or *Emily.Carter@ferc.gov.*

j. *Deadline for filing comments:* 20 days from the notice date. Reply comments are due 30 days from the notice date.

k. *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 require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.go*v) under the ''e-Filing'' link.

l. Symbiotics, LLC (Symbiotics) filed the Settlement Agreement on behalf of itself and the other signatories to the Settlement Agreement. The U.S. Department of Agriculture—Forest Service, U.S. Department of Interior—Fish and Wildlife Service, Idaho Department of Fish and Game, Idaho Department of Parks and Recreation, Trout Unlimited, the Henry's Fork Foundation, and the Greater Yellowstone Coalition. The purpose of the Settlement Agreement is to resolve among the signatories all issues regarding fish, wildlife, recreational, and aesthetic resources associated with issuance of an original license for the proposed project. The parties, through Symbiotics, request that the Commission consider the protection, mitigation, and enhancement measures outlined in the Settlement Agreement in the Final Environmental Assessment for the proposed project and that the Commission includes them in any license issued for the proposed Chester Hydroelectric Project.

m. A copy of the settlement agreement is available for review at the Commission on 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.

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–22620 Filed 11–19–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1121; FRL–8498–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting Requirements for Motor Vehicle and Non-Road Diesel Fuel

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on January 31, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 22, 2008.

ADDRESSES: Submit your comments, clearly identified as referring to Docket ID No. EPA–HQ–OAR–2007–1121, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may telephone the Air and Radiation Docket at 202–566–1742.
- *Hand Delivery:* The Public Reading Room is located at the EPA West Building, 1301 Constitution Avenue, NW., Room, 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. You may telephone the Air and Radiation Docket at 202–566–1742.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–1121. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Anne-Marie C. Pastorkovich, Attorney/Advisor, Mail Code: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9423; fax number: 202–343–2801; e-mail address: *pastorkovich.anne-marie@epa.gov*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–1121, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable us to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the Docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does this Apply to?

Affected entities: Entities potentially affected by this action (*with SIC Code/ 2002 NAICS Code indicated in parentheses*) are refiners (2911/324110), importers (5172/424720), pipelines (4613), petroleum marketers and other distributors (5171, 5172/424710, 424720), terminals (5171/424710), fuel oil dealers (5172/424720), fuel additive manufacturers (2911/424720), petroleum retailers and wholesale purchaser-consumers (5171, 5172/ 424710, 424720) and laboratories (8734/ 541380).

Title: Recordkeeping and Reporting Requirements for Motor Vehicle and Non-Road Diesel Fuel.

ICR numbers: EPA ICR No 1718.08, OMB Control No. 2060–0308.

ICR status: This ICR is currently scheduled to expire January 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. They are also displayed by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers recordkeeping and reporting requirements for motor vehicle diesel fuel and non-road, locomotive and marine diesel fuel. It also includes recordkeeping and reporting associated with the placement of codes on dyed diesel fuel (the dye is required under IRS regulations). The main purpose for recordkeeping and reporting is to ensure compliance with the regulations at 40 CFR part 80, *Subpart I—Motor Vehicle, Non-Road, Locomotive, and Marine Diesel Fuel.* Because the diesel fuel regulations are written to permit several types of flexibility, periodic reporting (annual and quarterly) is necessary in order for EPA to monitor compliance. Most reporting is mandatory. Parties may assert a claim of business confidentiality and submissions covered by such a claim will be treated in accordance with procedures at 40 CFR part 2 and established Agency procedures.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.6 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.

A document entitled ''Draft Annual Burdens associated with Motor Vehicle and Non-Road Diesel Fuel/Applicable January 2008 through December 2010'' has been placed in Docket No. EPA–HQ–OAR–2007–1121. This draft document provides a more detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 4,675.

Frequency of response: Annual, quarterly, and/or on occasion.

Estimated total average number of responses for each respondent: 91.1

Estimated total annual burden hours: 426,075 hours.

Estimated total annual costs: $2,626,000 (All purchased services.)

Are There Changes in the Estimates From the Last Approval?

There is a decrease of 48,083 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease is due in large part to reporting requirements that are no longer applicable to all or most parties (e.g. initial registration, application for small refiner status, and pre-compliance reporting). There is also an associated decrease of $5,874,000 in costs and an associated decrease of 18,036 in the number of responses.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: November 9, 2007.

Karl J. Simon,

Director, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality.

[FR Doc. E7–22660 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8497–6]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) will begin to accept requests, from December 1, 2007 through January 31, 2008, for grants to supplement State and Tribal Response Programs. This notice provides guidance on eligibility for funding, use of funding, grant mechanisms and process for awarding funding, the allocation system for distribution of funding, and terms and reporting under these grants. EPA has consulted with state and tribal officials in developing this guidance.

The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements and a public record. Another goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program. This funding is not intended to supplant current state or tribal funding for their response programs. Instead, it is to supplement their funding to increase their response capacity.

For fiscal year 2008, EPA will consider funding requests up to a maximum of $1.5 million per state or tribe. Subject to the availability of funds, EPA regional personnel will be

available to provide technical assistance to states and tribes as they apply for and carry out these grants.

DATES: This action is effective as of December 1, 2007. EPA expects to make non-competitive grant awards to states and tribes which apply during fiscal year 2008.

ADDRESSES: Mailing addresses for U.S. EPA Regional Offices and U.S. EPA Headquarters can be located at *http://www.epa.gov/brownfields.*

FOR FURTHER INFORMATION CONTACT: The U.S. EPA's Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization, (202) 566–2777.

SUPPLEMENTARY INFORMATION: Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive $50 million grant program to establish and enhance state [1] and tribal [2] response programs. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. Section 128(a) cooperative agreements are awarded and administered by the U.S. Environmental Protection Agency (EPA) regional offices. This document provides guidance that will enable states and tribes to apply for and use Fiscal Year 2008 Section 128(a) funds.

Requests for funding will be accepted from December 1, 2007 through January 31, 2008. States or tribes that fail to submit the request in the appropriate manner may forfeit their ability to request funds. Requests submitted by the January 31, 2008 request deadline are preliminary; final cooperative agreement work plans and budgets will be negotiated with the regional offices once final allocation determinations are made. As in prior years, EPA will place special emphasis on reviewing a cooperative agreement recipients' use of prior 128(a) funding in making allocation decisions.

Note, EPA has clarified the limits on using Section 128(a) funds to assess and cleanup specific brownfields sites. Also included are the reporting requirements for ''Reporting Program Activity Levels'' that must be submitted by January 31, 2008.

States and tribes requesting funds are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their final cooperative agreement package. For more information, please go to *http://www.grants.gov.*

The Catalogue of Federal Domestic Assistance entry for the Section 128(a) State and Tribal Response Program cooperative agreements is 66.817.

Background

State and tribal response programs oversee assessment and cleanup activities at the majority of brownfields sites across the country. The depth and breadth of state and tribal response programs vary. Some focus on CERCLA related activities, while others are multi-faceted, for example, addressing sites regulated by both CERCLA and the Resource Conservation and Recovery Act (RCRA). Many state programs also offer accompanying financial incentive programs to spur cleanup and redevelopment. In passing Section 128(a),[3] Congress recognized the accomplishments of state and tribal response programs in cleaning up and redeveloping brownfields sites. Section 128(a) also provides EPA with an opportunity to strengthen its partnership with states and tribes.

The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements and a ''public record.'' The secondary goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program. This funding is not intended to supplant current state or tribal funding for their response programs. Instead, it is to supplement their funding to increase their response program's capacity.

Subject to the availability of funds, EPA regional personnel will be available to provide technical assistance to states and tribes as they apply for and carry out Section 128(a) cooperative agreements.

Eligibility for Funding

To be eligible for funding under CERCLA Section 128(a), a state or tribe must:

• Demonstrate that their response program includes, or is taking reasonable steps to include, the four elements of a response program, described below; *or* (b) be a party to voluntary response program Memorandum of Agreement (VRP MOA) [4] with EPA; *and*

• Maintain and make available to the public a record of sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year, *see* CERCLA Section 128(b)(1)(C).

Matching Funds/Cost-Share

States and tribes are *not* required to provide matching funds for cooperative agreements awarded under Section 128(a), with the exception of the Section 128(a) funds a state or tribe uses to capitalize a Brownfields Revolving Loan Fund under CERCLA Section 104(k)(3).

The Four Elements—Section 128(A)

Section 128(a) recipients that do not have a VRP MOA with EPA must demonstrate that their response program includes, or is taking reasonable steps to include, the four elements. Achievement of the four elements should be viewed as a priority. Section 128(a) authorizes funding for activities necessary to establish and enhance the four elements and to establish and maintain the public record requirement.

Generally, the four elements are:

Timely survey and inventory of brownfields sites in state or tribal land. EPA's goal in funding activities under this element is to enable the state or tribe to establish or enhance a system or process that will provide a reasonable estimate of the number, likely locations, and the general characteristics of brownfields sites in their state or tribal lands.

EPA recognizes the varied scope of state and tribal response programs and will not require states and tribes to develop a ''list'' of brownfields sites. However, at a minimum, the state or tribe should develop and/or maintain a system or process that can provide a reasonable estimate of the number, likely location, and general characteristics of brownfields sites within their state or tribal lands.

Given funding limitations, EPA will negotiate work plans with states and tribes to achieve this goal efficiently and effectively, and within a realistic time frame. For example, many of EPA's Brownfields Assessment cooperative agreement recipients conduct inventories of brownfields sites in their communities or jurisdictions. EPA

[1] The term ''state'' is defined in this document as defined in CERCLA Section 101(27).

[2] The term ''Indian tribe'' is defined in this document as it is defined in CERCLA Section 101(36). Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA Section 128(a).

[3] The Small Business Liability Relief and Brownfields Revitalization Act (SBLRBRA) was signed into law on January 11, 2002. The Act amends CERCLA by adding Section 128(a).

[4] The legislative history of SBLRBRA indicates that Congress intended to encourage states and Tribes to enter into MOAs for their voluntary response programs. States or tribes that are parties to VRP MOAs and that maintain and make available a public record are automatically eligible for Section 128(a) funding.

encourages states and tribes to work with these cooperative agreement recipients to obtain the information that they have gathered and include it in their survey and inventory.

Oversight and enforcement authorities or other mechanisms and resources. EPA's goal in funding activities under this element is to have state and tribal response programs that include oversight and enforcement authorities or other mechanisms, and resources that are adequate to ensure that:

• A response action will protect human health and the environment and be conducted in accordance with applicable federal and state law; and

• The necessary response activities are completed if the person conducting the response activities fails to complete the necessary response activities (this includes operation and maintenance or long-term monitoring activities).

Mechanisms and resources to provide meaningful opportunities for public participation.[5]

EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms and resources for public participation, including, at a minimum:

• Public access to documents and related materials that a state, tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities;

• Prior notice and opportunity for public comment on cleanup plans and site activity; and

• A mechanism by which a person who is, or may be, affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfields site—located in the community in which the person works or resides—may request that a site assessment be conducted. The appropriate state or tribal official must consider this request and appropriately respond.

Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete. EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms to approve cleanup plans and to verify that response actions are complete, including a requirement for certification or similar documentation from the state, the tribe, or a licensed site professional to the person conducting the response action that the response action is complete. Written approval by a state or tribal response program official of a proposed cleanup plan is an example of an approval mechanism.

Public Record Requirement

In order to be eligible for Section 128(a) funding, states and tribes (including those with MOAs) must establish and maintain a public record system, described below, in order to receive funds.

Specifically, under Section 128(b)(1)(C), states and tribes must:

• Maintain and update, at least annually or more often as appropriate, a record of sites that includes the name and location of sites at which response actions have been completed during the previous year;

• Maintain and update, at least annually or more often as appropriate, a record of sites that includes the name and location of sites at which response actions are planned to be addressed in the next year; and

• Identify in the public record whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify the institutional controls relied on in the remedy.

Section 128(a) funds may be used to maintain and make available a public record system that meets the requirements discussed above.

Distinguishing the ''survey and inventory'' element from the ''public record.'' It is important to note that the public record requirement differs from the ''timely survey and inventory'' element described in the ''Four Elements'' section above. The public record addresses sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year. In contrast, the ''timely survey and inventory'' element, described above, refers to a general approach to identifying brownfields sites.

Making the public record easily accessible. EPA's goal is to enable states and tribes to make the public record and other information, such as information from the ''survey and inventory'' element, easily accessible. For this reason, EPA will allow states and tribes to use Section 128(a) funding to make the public record, as well as other information, such as information from the ''survey and inventory'' element, available to the public via the internet or other means. For example, the Agency would support funding state and tribal efforts to include detailed location information in the public record such as the street address and latitude and longitude information for each site.[6] A state or tribe may also choose to use the Section 128(a) funds to make their survey and inventory information available on the internet as well.

In an effort to reduce cooperative agreement reporting requirements and increase public access to the public record, EPA encourages states and tribes to place their public record on the internet. If a state or tribe places the public record on the internet, maintains the substantive requirements of the public record, and provides EPA with the link to that site, EPA will, for purposes of cooperative agreement funding only, deem the public record reporting requirement met.

Long-term maintenance of the public record. EPA encourages states and tribes to maintain public record information, including data on institutional controls, on a long term basis (more than one year) for sites at which a response action has been completed. Subject to EPA regional office approval, states or tribes may include development and operation of systems that ensure long term maintenance of the public record, including information on institutional controls, in their work plans.[7]

Use of Funding

Overview

Section 128(a)(1)(B) describes the eligible uses of cooperative agreement funds by states and tribes. In general, a state or tribe may use a cooperative agreement to ''establish or enhance'' their response programs, including elements of the response program that include activities related to responses at brownfields sites with petroleum contamination. Eligible activities include, but are not limited to, the following:

• Develop legislation, regulations, procedures, ordinances, guidance, etc. that would establish or enhance the administrative and legal structure of their response programs;

• Establish and maintain the required public record described above. EPA considers activities related to maintaining and monitoring institutional controls to be eligible costs under Section 128(a); or

• Conduct limited site-specific activities, such as assessment or cleanup, provided such activities

[5] States and tribes establishing this element may find useful information on public participation on EPA's community involvement Web site at *http://www.epa.gov/superfund/action/community/index.htm*

[6] For further information on latitude and longitude information, please see EPA's data standards Web site available at *http://oaspub.epa.gov/edr/epastd$.startup.*

[7] States and tribes may find useful information on institutional controls on EPA's institutional controls Web site at *http://www.epa.gov/superfund/action/ic/index.htm.*

establish and/or enhance the response program and are tied to the four elements. EPA will not provide Section 128(a) funds solely for assessment or cleanup of specific brownfields sites; site specific activities must be an incidental part of an overall Section 128(a) work plan that includes funding for other activities that establish or enhance the four elements.

- Capitalize a revolving loan fund (RLF) for brownfields cleanup under CERCLA Section 104(k)(3). These RLFs are subject to the same statutory requirements and cooperative agreement terms and conditions applicable to RLFs awarded under Section 104(k)(3). Requirements include a 20% match on the amount of Section 128(a) funds used for the RLF, a prohibition on using EPA cooperative agreement funds for administrative costs relating to the RLF, and a prohibition on using RLF loans or subgrants for response costs at a site for which the recipient may be potentially liable under Section 107 of CERCLA. Other prohibitions contained in CERCLA Section 104(k)(4) also apply;
- Purchase environmental insurance or develop a risk-sharing pool, indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program;

Uses Related to ''Establishing'' a State or Tribal Response Program

Under CERCLA Section 128(a), ''establish'' includes activities necessary to build the foundation for the four elements of a state or tribal response program and the public record requirement. For example, a state or tribal response program may use Section 128(a) funds to develop regulations, ordinances, procedures, or guidance. For more developed state or tribal response programs, ''establish'' may also include activities that keep their program at a level that meets the four elements and maintains a public record required as a condition of funding under CERCLA Section 128(b)(1)(C).

Uses Related to ''Enhancing'' a State or Tribal Response Program

Under CERCLA Section 128(a), ''enhance'' is related to activities that add to or improve a state or tribal response program or increase the number of sites at which response actions are conducted under a state or tribal response program.

The exact ''enhancement'' uses that may be allowable depend upon the work plan negotiated between the EPA regional office and the state or tribe. For example, regional offices and states or tribes may agree that Section 128(a) funds may be used for outreach and training directly related to increasing awareness of its response program, and improving the skills of program staff. It may also include developing better coordination and understanding of other state response programs, e.g., RCRA or USTs. Other ''enhancement'' uses may be allowable as well.

Uses Related to Site-Specific Activities

States and tribes may use Section 128(a) funds for activities that improve state or tribal capacity to increase the number of sites at which response actions are conducted under the state or tribal response program.

Eligible uses of funds include, but are not limited to, site-specific activities such as:

- Conducting assessments or cleanups at *brownfields* sites (see next section for additional information);
- Oversight of response action;
- Technical assistance to federal brownfields cooperative agreement recipients;
- Development and/or review of site-specific quality assurance project plans (QAPPs);
- Preparation and submission of Property Profile Forms; and
- Auditing site cleanups to verify the completion of the cleanup.

Uses Related to Site-Specific Assessment and Cleanup Activities

Site-specific assessment and cleanup activities should establish and/or enhance the response program and be tied to the four elements. EPA will not provide Section 128(a) funds solely for assessment or cleanup of specific brownfields sites; site specific activities must be an incidental part of an overall Section 128(a) work plan that includes funding for other activities that establish or enhance the four elements. Site-specific assessments and cleanups must comply with all applicable federal and state laws and are subject to the following restrictions:

- Section 128(a) funds can only be used for assessments or cleanups at sites that meet the definition of a brownfields site at CERCLA Section 101(39).
- Absent EPA approval, no more than $200,000 per site can be funded for assessments with Section 128(a) funds, and no more than $200,000 per site can be funded for cleanups with Section 128(a) funds.
- Absent EPA approval, the state/tribe may not use funds awarded under this agreement to assess and clean up sites owned by the recipient.
- Assessments and cleanups cannot be conducted at sites where the state/tribe is a potentially responsible party pursuant to CERCLA Section 107, except:
  - At brownfields sites contaminated by a controlled substance as defined in CERCLA Section 101(39)(D)(ii)(I); or
  - When the recipient would satisfy all of the elements set forth in CERCLA Section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.
- Subgrants cannot be provided to entities that may be potentially responsible parties (pursuant to CERCLA Section 107) at the site for which the assessment or cleanup activities are proposed to be conducted, except:
  - At brownfields sites contaminated by a controlled substance as defined in CERCLA Section 101(39)(D)(ii)(I); or
  - When the recipient would satisfy all of the elements set forth in CERCLA Section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.

Costs Incurred for Activities at ''Non-Brownfields'' Sites

Costs incurred for activities at non-brownfields sites, e.g., oversight, may be eligible and allowable if such activities are included in the state's or tribe's work plan. For example, auditing completed site cleanups in jurisdictions where states or tribes use licensed site professionals, to verify that sites have been properly cleaned up, may be an eligible cost under Section 128(a). These costs need not be incurred in connection with a brownfields site to be eligible, but must be authorized under the state's or tribe's work plan to be allowable. Other uses may be eligible and allowable as well, depending upon the work plan negotiated between the EPA regional office and the state or tribe. *However, assessment and cleanup activities may only be conducted on eligible brownfields sites, as defined in CERCLA Section 101(39).*

Uses Related to Site-Specific Activities at Petroleum Brownfields Sites

States and tribes may use Section 128(a) funds for activities that establish and enhance their response programs, even if their response programs address petroleum contamination. Also, the costs of site-specific activities, such as site assessments or cleanup at petroleum contaminated brownfields sites, defined at CERCLA Section 101(39)(D)(ii)(II), are eligible and are allowable if the activity is included in the work plan negotiated between the EPA regional office and the state or tribe. Section 128(a) funds used to capitalize a Brownfields RLF may be used at brownfields sites contaminated by petroleum to the extent allowed under the CERCLA Section 104(k)(3) RLF.

General Programmatic Guidelines for 128(A) Grant Funding Requests

Funding authorized under CERCLA Section 128(a) is awarded through a cooperative agreement [8] with a state or tribe. The program is administered under the general EPA grant and cooperative agreement regulations for states, tribes, and local governments found in the Code of Federal Regulations at 40 CFR part 31. Under these regulations, the cooperative agreement recipient for Section 128(a) grant program is the government to which a cooperative agreement is awarded and which is accountable for the use of the funds provided. The cooperative agreement recipient is the entire legal entity even if only a particular component of the entity is designated in the cooperative agreement award document.

One application per state or tribe. Subject to the availability of funds, EPA regional offices will negotiate and enter into Section 128(a) cooperative agreements with eligible and interested states or tribes. *EPA will accept only one application from each eligible state or tribe.*

Define the State or Tribal Response Program. States and tribes must define in their work plan the ''Section 128(a) response program(s)'' to which the funds will be applied, and may designate a component of the state or tribe that will be EPA's primary point of contact for negotiations on their proposed work plan. When EPA funds the Section 128(a) cooperative agreement, states and tribes may distribute these funds among the appropriate state and tribal agencies that are part of the Section 128(a) response program. This distribution must be clearly outlined in their annual work plan.

Separate cooperative agreements for the capitalization of RLFs using Section 128(a) funds. If a portion of the 128(a) grant funds requested will be used to capitalize a revolving loan fund for cleanup, pursuant to 104(k)(3), two separate cooperative agreements must be awarded, i.e., one for the RLF and one for non-RLF uses. States and tribes may, however, submit one initial request for funding, delineating the RLF as a proposed use. Section 128(a) funds used to capitalize an RLF are not eligible for inclusion into a Performance Partnership Grant (PPG).

Authority to Manage a Revolving Loan Fund Program. If a state or tribe chooses to use its 128(a) funds to capitalize a revolving loan fund program, the state or tribe must have the authority to manage the program, e.g., issue loans. If the agency/department listed as the point of contact for the 128(a) cooperative agreement does not have this authority, it must be able to demonstrate that another state or tribal agency does have the authority to manage the RLF and is willing to do so.

Section 128(a) cooperative agreements are eligible for inclusion in the Performance Partnership Grant (PPG). States and tribes may include Section 128(a) cooperative agreements in their PPG. 69 FR 51756 (2004). Section 128(a) funds used to capitalize an RLF are not eligible for inclusion in the PPG.

Project Period. EPA regional offices will determine the project period for each cooperative agreement. These may be for multiple years depending on the regional office's cooperative agreement policies. Each cooperative agreement must have an annual budget period tied to an annual work plan.

Demonstrating the Four Elements. As part of the annual work plan negotiation process, states or tribes that do *not* have VRP MOAs must demonstrate that their program includes, or is taking reasonable steps to include, the four elements described above. EPA will not fund, in future years, state or tribal response program annual work plans if EPA determines that these requirements are not met or reasonable progress is not being made. EPA may base this determination on the information the state or tribe provides to support its work plan, or on EPA's review of the state or tribal response program.

Establishing and Maintaining the Public Record. Prior to funding a state's or tribe's annual work plan, EPA regional offices will verify and document that a public record, as described above, exists and is being maintained.[9]

- *States or tribes that received initial funding in FY03, FY04, FY05, or FY06:* Requests for FY08 funds will *not* be accepted from states or tribes that fail to demonstrate, by the January 31, 2008 request deadline, that they established and are maintaining a public record. (Note, this would potentially impact any state or tribe that had a term and condition placed on their FY07 cooperative agreement that prohibited drawdown of FY07 funds prior to meeting public record requirement.) States or tribes in this situation will not be prevented from drawing down their prior year funds, once the public record requirement is met, but will be restricted from applying for FY08 funding.
- *States or Tribes that received initial funding in FY07:* by the time of the actual FY08 award, the state or tribe must demonstrate that they established and maintained the public record (those states and tribes that do not meet this requirement will have a term and condition placed on their FY08 cooperative agreement that prevents the drawdown of FY08 funds until the public record requirement is met).
- *Recipients receiving funds for the first time in FY08:* these recipients have one year to meet this requirement and may utilize the 128(a) cooperative agreement funds to do so.

Demonstration of Significant Utilization of Prior Years Funding. During the allocation process, EPA headquarters places significant emphasis on the utilization of prior years' funding. When submitting your request for FY08 funds, the following information must be submitted:

- For those states and tribes with Superfund VCP Core or Targeted Brownfields Assessment cooperative agreements awarded under CERCLA Section 104(d), you must provide, by agreement number, the amount of funds that have not been requested for reimbursement (i.e., those funds that remain in EPA's Financial Data Warehouse) and must provide a detailed explanation and justification for why such funds should not be considered in the funding allocation process.
- For those states and tribes that received FY03, FY04, FY05, and FY06 Section 128 funds, you must provide the amount of FY03, FY04, FY05, and FY06 funds that have not been requested for reimbursement (i.e, those funds that remain in EPA's Financial Data Warehouse) and must provide a detailed explanation and justification for why such funds should not be considered in the funding allocation process.

Note: EPA Regional staff will review EPA's Financial Database Warehouse to confirm the amount of outstanding funds reported. *It is strongly recommended that you work with your regional counterpart to determine the*

[8] A cooperative agreement is an assistance agreement to a state or a tribe that includes substantial involvement of EPA regional enforcement and program staff during performance of activities described in the cooperative agreement work plan. Examples of this involvement include technical assistance and collaboration on program development and site-specific activities.

[9] For purposes of cooperative agreement funding, the state's or tribe's public record applies to that state's or tribe's response program(s) that utilized the Section 128(a) funding.

amount of funds ''outstanding.'' In making this determination, EPA will take into account those funds that have been committed through an appropriate state or tribal contract, inter-agency agreement, or similar type of binding agreement, but have not been requested for reimbursement, i.e., that are not showing as ''drawn down'' in EPA's Data Warehouse.

Demonstration of Need to Receive Funds above the FY07 Funding Distribution. Due to the limited amount of funding available, recipients must demonstrate a specific need when requesting an amount above the amount allocated to the state or tribe in FY07.

Allocation System and Process for Distribution of Fund. EPA regional offices will work with interested states and tribes to develop their preliminary work plans and funding requests. Final cooperative agreement work plans and budgets will be negotiated with the regional office once final allocation determinations are made.

For Fiscal Year 2008, EPA will consider funding requests up to a maximum of $1.5 million per state or tribe. This limit may be changed in future years based on appropriation amounts and demand for funding.

EPA will target funding of at least $3 million per year for tribal response programs. If this funding is not used, it will be carried over and added to at least $3 million in the next fiscal year. It is expected that the funding demand from tribes will increase through the life of this cooperative agreement program and this funding allocation system should ensure that adequate funding for tribal response programs is available in future years.

After the January 31, 2008 request deadline, regional offices will submit summaries of state and tribal requests to EPA headquarters. Before submitting requests to EPA headquarters, regional offices may take into account additional factors when determining recommended allocation amounts. Such factors include, but are not limited to, the depth and breadth of the state or tribal program; scope of the perceived need for the funding, e.g., size of state or tribal jurisdiction or the proposed work plan balanced against capacity of the program, amount of prior funding, and funds remaining from prior years, etc.

After receipt of the regional recommendations, EPA headquarters will consolidate requests and allocate funds accordingly.

Information To Be Submitted With the Funding Request

States and tribes requesting 128 FY08 funds *must submit the following information,* as applicable, to their regional contact on or before January 31, 2008 (regions may request additional information, as needed):

- For those states and tribes with prior Superfund VCP Core or Targeted Brownfields funding awarded under CERCLA Section 104(d), provide, by agreement number, the amount of funds that have not been requested for reimbursement (i.e., those funds that remain in EPA's Financial Data Warehouse) and a detailed explanation and justification for why such funds should not be considered in the funding allocation process. *EPA will take into account those funds that have been committed through an appropriate state or tribal contract, inter-agency agreement, or similar type of binding agreement.*
- For those states and tribes that received an allocation of FY03, '04, and/or '05 128 funds, provide the amount of FY03, '04, and/or '05 funds that have not been requested for reimbursement (i.e, those funds that remain in EPA's Financial Data Warehouse) and a detailed explanation and justification for why such funds should not be considered in the funding allocation process. *EPA will take into account those funds that have been committed through an appropriate state or tribal contract, inter-agency agreement, or similar type of binding agreement.*
- For those states and tribes requesting amounts above their FY07 allocation, provide an explanation of the specific need(s) that triggered the request for increased funding.
- All states and tribes requesting FY08 funds must submit a summary of the planned use of the funds with associated dollar amounts. Please provide it in the following format:

Funding use	Requested	Summary of intended use
''Establish or Enhance'' the four elements	$XX,XXX	(EXAMPLE USES) • Develop a community involvement process. • Fund an outreach coordinator. • Develop/enhance ordinances, regulations, procedures for response programs. • Issue public notices of site activities. • Review cleanup plans and verify completed actions.
Establish and Maintain the Public Record	$XX,XXX	(EXAMPLE USES) • Maintain public record. • Create web site for public record. • Disseminate public information on how to access the public record.
''Enhance the Response Program or Cleanup Capacity''.	$XX,XXX	(EXAMPLE USES) • Hire additional staff for oversight of brownfields cleanups. • Attend training and conferences on brownfields cleanup technologies & other brownfields topics. • Perform program management activities. • Negotiate/manage contracts for response programs. • Enhance program management & tracking systems.
Site-specific Activities	$XX,XXX	(EXAMPLE USES) • Perform 10 site assessments in rural communities. • Negotiate brownfields agreements/voluntary cleanup contracts. • Provide technical assistance to federal brownfields cooperative agreement. recipients. • Develop and/or review QAPPs. • Conduct cleanup activities at brownfields sites. • Prepare Property Profile Forms.
Environmental Insurance	$XX,XXX	(EXAMPLE USES) • Review potential uses of environmental insurance.
Revolving Loan Fund	$XX,XXX	(EXAMPLE USES) • Create a cleanup revolving loan fund.

Funding use	Requested	Summary of intended use
Total Funding Requested	$XXX,XXX	

Terms and Reporting

Cooperative agreements for state and tribal response programs will include programmatic and administrative terms and conditions. These terms and conditions will describe EPA's substantial involvement including technical assistance and collaboration on program development and site-specific activities.

Progress Reports. In accordance with 40 CFR 31.40, state and tribes must provide progress reports as provided in the terms and conditions of the cooperative agreement negotiated with EPA regional offices. State and tribal costs for complying with reporting requirements are an eligible expense under the Section 128(a) cooperative agreement. As a minimum, state or tribal progress reports must include both a narrative discussion and performance data relating to the state's or tribe's accomplishments and environmental outputs associated with the approved budget and workplan and should provide an accounting of 128(a) funding. If applicable, the state or tribe must include information on activities related to establishing or enhancing the four elements of the state's or tribe's response program. All recipients must provide information relating to establishing or, if already established, maintaining the public record.

Reporting Requirements. Reporting of Program Activity Levels: States and tribes must report, by January 31, 2008, a summary of the previous federal fiscal year's work (October 1, 2006 through September 30, 2007). The following information must be submitted to your regional project officer (if no activity occurred in the particular category, indicate ''N/A''):

- Number of properties enrolled in the response program supported by the CERCLA Section 128(a) funding.
- Number of properties that received a No Further Action (NFA) documentation of a Certificate of Completion (COC) or equivalent, AND have all required institutional controls in place.
- Number of properties that received an NFA or COC or equivalent and do NOT have all required institutional controls in place.
- Total number of acres associated with properties in #2 above.
- (OPTIONAL) Number of properties where assistance was provided, but the property was NOT enrolled in the response program.

Depending upon the activities included in the state's or tribe's work plan, an EPA regional office may request that a progress report include:

- *Information related to the public record.* All recipients must report information related to establishing or, if already established, maintaining the public record, described above. States and tribes can refer to an already existing public record, e.g., Web site or other public database to meet this requirement.

For the purposes of cooperative agreement funding only, and depending upon the activities included in the state or tribe's work plan, this *may* include:

A list of sites at which response actions have been completed including:

- Date the response action was completed.
- Site name.
- The name of owner at time of cleanup, if known.
- Location of the site (street address, and latitude and longitude).
- Whether an institutional control is in place.
- Explain the type of the institutional control in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.).
- Nature of the contamination at the site (e.g., hazardous substances, contaminants, or pollutants, petroleum contamination, etc.).
- Size of the site in acres.

A list of sites planned to be addressed by the state or tribal response program including:

- Site name and the name of owner at time of cleanup, if known.
- Location of the site (street address, and latitude and longitude).
- To the extent known, whether an institutional control is in place.
- Explain the type of the institutional control in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.).
- To the extent known, the nature of the contamination at the site (e.g., hazardous substances, contaminants, or pollutants, petroleum contamination, etc.).
- Size of the site in acres.

Reporting environmental insurance. Recipients with work plans that include funding for environmental insurance must report:

- Number and description of insurance policies purchased (e.g., type of coverage provided; dollar limits of coverage; category and identity of insured persons; premium; first dollar or umbrella; site specific or blanket; occurrence or claims made, etc.).
- The number of sites covered by the insurance.
- The amount of funds spent on environmental insurance (e.g., amount dedicated to insurance program, or to insurance premiums) and the amount of claims paid by insurers to policy holders.

Reporting for site-specific assessment or cleanup activities. Recipients with work plans that include funding for brownfields site assessment or cleanup must complete the OMB-approved Property Profile Form for each site assessment and cleanup.

Reporting for other site-specific activities. Recipients with work plans that include funding for other site-specific related activities must include a description of the site-specific activities and the number of sites at which the activity was conducted. For example:

- Number and frequency of oversight audits of licensed site professional certified cleanups.
- Number and frequency of state/tribal oversight audits conducted.
- Number of sites where staff conducted audits, provided technical assistance, or conducted other oversight activities.
- Number of staff conducting oversight audits, providing technical assistance, or conducting other oversight activities.

Reporting for RLF uses. Recipients with work plans that include funding for Revolving Loan Fund (RLF) must include the information required by the terms and conditions for progress reporting under CERCLA Section 104(k)(3) RLF cooperative agreements.

Reporting for Non-MOA states and tribes. All recipients *without* a VRP MOA must report activities related to establishing or enhancing the four elements of the state's or tribe's response program. For each element state/tribes must report how they are maintaining the element or how they are taking reasonable steps to establish or enhance the element as negotiated in individual state/tribal work plans. For example, pursuant to CERCLA Section 128(a)(2)(B), reports on the oversight and enforcement authorities/mechanisms element *may* include:

- A narrative description and copies of applicable documents developed or under development to enable the response program to conduct enforcement and oversight at sites. For example:
  - Legal authorities and mechanisms (e.g., statutes, regulations, orders, agreements);
  - Policies and procedures to implement legal authorities; and other mechanisms;
- A description of the resources and staff allocated/to be allocated to the response program to conduct oversight and enforcement at sites as a result of the cooperative agreement;
- A narrative description of how these authorities or other mechanisms, and resources, are adequate to ensure that:
  - A response action will protect human health and the environment; and be conducted in accordance with applicable Federal and State law;
  - And if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed; and
- A narrative description and copy of appropriate documents demonstrating the exercise of oversight and enforcement authorities by the response program at a brownfields site.

Where applicable, EPA may require states/tribes to report specific performance measures related to the four elements, which can be aggregated for national reporting to Congress.

The regional offices may also request other information be added to the progress reports, as appropriate, to properly document activities described by the cooperative agreement work plan.

EPA regions may allow states or tribes to provide performance data in appropriate electronic format.

The regional offices will forward progress reports to EPA Headquarters, if requested. This information may be used to develop national reports on the outcomes of CERCLA Section 128(a) funding to states and tribes.

Dated: November 9, 2007.

David R. Lloyd,

Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8498–1]

Science Advisory Board Staff Office, EPA Clean Air Scientific Advisory Committee; Notification of a Public Advisory Committee Meeting of the CASAC Lead Review Panel for the Review of the Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel (CASAC Panel) to review the Advance Notice of Proposed Rulemaking (ANPR) on the National Ambient Air Quality Standards (NAAQS) for Lead.

DATES: The meeting will be held from 9 a.m. (Eastern Time) on Wednesday, December 12, 2007, through 1 p.m. (Eastern Time) on Thursday, December 13, 2007.

Location: The meeting will take place at the Mandarin Oriental, 1330 Maryland Avenue, SW., Washington, DC 20024, telephone: 202–554–8588.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (five minutes or less) or wants further information concerning these meetings must contact Mr. Fred Butterfield, Designated Federal Officer (DFO). Mr. Butterfield 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: 202–343–9994; fax: 202–233–0643; or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. The CASAC provides advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Lead Review Panel consists of the seven members of the chartered CASAC supplemented by subject matter experts. The CASAC Lead Review Panel provides advice and recommendations to EPA concerning lead in ambient air. The Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the ‘‘criteria’’ air pollutants, including lead. In February 2007, the CASAC Panel met to conduct a peer-review of the Agency's 1st Draft Lead Staff Paper and the Draft Lead Exposure and Risk Assessments technical support document, developed by EPA's Office of Air Quality Planning and Standards (OAQPS), within the Office of Air and Radiation (OAR). The 1st Draft Lead Staff Paper, which is based on key scientific and technical information contained in the Agency's Final Air Quality Criteria Document (AQCD) for Lead, included assessments and preliminary analyses related to air quality characterization, integration and evaluation of health information, human exposure analysis and health risk assessment, and evaluation and analysis of information on vegetation damage and other welfare effects. The Draft Lead Exposure and Risk Assessments technical support document described the methodology and presented the results of the pilot phase human exposure and health risk assessments and ecological risk assessments for a number of case studies. The CASAC's letter/report to the Administrator concerning this review (EPA–CASAC–07–003, dated March 27, 2007) is posted on the SAB Web site.

In August 2007, the CASAC Panel held a public advisory meeting to review EPA's 2nd Draft Lead Human Exposure and Health Risk Assessments document, which was limited in focus to draft lead human exposure and health risk assessments for selected, full-scale case studies. The CASAC's letter/report to the Administrator concerning this review (EPA–CASAC–07–007, dated September 27, 2007) is posted on the SAB Web site. In that letter, the CASAC indicated it would review the Agency's Final Lead Staff Paper and Final Lead Risk Assessment Report for the purpose of offering additional, unsolicited advice to the EPA Administrator as the Agency develops the proposed rule for the Lead NAAQS. On November 1, 2007, EPA released the *Review of the National Ambient Air Quality Standards for Lead: Policy Assessment* *of Scientific and Technical Information—OAQPS Staff Paper* (Final Lead Staff Paper, November 2007), in accordance with a court-ordered schedule; and the related technical support document, *Lead: Human Exposure and Health Risk Assessments for Selected Case Studies* (Final Lead Risk Assessment Report, November 2007).

The Agency is implementing its new and improved process for conducting NAAQS reviews (*http://www.epa.gov/ttn/naaqs/*) during the course of the Lead NAAQS review. As part of this revised NAAQS review process, the Agency intends to issue an ANPR on the NAAQS for Lead around the end of November 2007 for publication in the **Federal Register**. The ANPR, which draws heavily from EPA's Final Lead Staff Paper and the Final Lead Risk Assessment Report, presents the range of policy options that the Agency is considering with respect to the NAAQS for Lead. The purpose of this public advisory meeting is for the CASAC to provide independent advice and recommendations on these policy options under consideration by EPA.

Technical Contacts: Any questions concerning the ANPR or the Agency's Final Lead Staff Paper or Final Lead Risk Assessment Report can be directed to Dr. Deirdre Murphy, OAQPS, at telephone: 919–541–0729, or e-mail: *murphy.deirdre@epa.gov*.

Availability of Meeting Materials: The Final Lead Staff Paper and the Final Lead Risk Assessment Report are posted on the Agency's Technology Transfer Network (TTN) Web site at URL: *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html,* in the ''Documents from Current Review'' section under ''Staff Papers'' and ''Technical Documents,'' respectively. Around the end of November 2007, the Agency will sign the ANPR for publication in the **Federal Register**, and will also post this on the same Web site at the URL above, in the ''Documents from Current Review'' section under ''**Federal Register** Notices.'' A copy of the draft agenda and other materials for this CASAC meeting will be posted on the SAB Web site prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Lead Review Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Mr. Butterfield, DFO, in writing (preferably via e-mail), by Wednesday, December 5, 2007, at the contact information noted above, to be placed on the list of public speakers for these meetings. *Written Statements:* Written statements should be received in the SAB Staff Office by Friday, December 7, 2007, so that the information may be made available to the CASAC Panel for their consideration prior to these meetings. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature (optional), 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 Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the first meeting, to give EPA as much time as possible to process your request.

Dated: November 14, 2007.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–22665 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1088; FRL–8339–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 4–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review the Scientific Issues Associated with the Agency's Proposed Action under FIFRA 6(b) Notice of Intent to Cancel Carbofuran.

DATES: The meeting will be held on February 5-8, 2008, from approximately 8:30 a.m. to 5 p.m., Eastern Standard Time.

Comments. The Agency encourages that written comments be submitted by January 22, 2008 and requests for oral comments be submitted by January 29, 2008. Written comments and requests to make oral comments are accepted until the date of the meeting, but anyone submitting written comments after January 22, 2008 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.** For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations. Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before December 3, 2007.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Environmental Protection Agency Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 Crystal Dr., Arlington, VA 22202.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–1088, 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–2007–1088. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. 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 a 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 a docket 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 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.

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as an ad hoc member of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Sharlene R. Matten, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0130; fax number: (202) 564–8382; e-mail addresses: *matten.sharlene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also 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 DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. 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.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2007–1088 in the subject line on the first page of your request.

1. *Written comments*. The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than January 22, 2008, to provide FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, anyone submitting written comments after January 22, 2008 should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.** Anyone submitting written comments of the meeting should bring 30 copies for distribution to the FIFRA SAP.

2. *Oral comments*. The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than January 29, 2008, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting*. Seating at the meeting will be on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting*. As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Wildlife epidemiology with avian incident familiarity, avian agro-ecology, wildlife toxicology, environmental chemistry and drinking water exposure to chemicals, deterministic and probabilistic ecological risk assessment of chemicals (including terrestrial risk assessment),

human toxicology with experience in pesticides causing acetylcholinesterase inhibition, human toxicology with experience with N-methyl carbamates (these pesticides pose specific challenges in the laboratory), dermal toxicology with particular experience with using animal toxicology data to extrapolate human risk, statistics and/or BMD modeling, and human health risk assessment and approaches to hazard assessment of chemicals. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before December 3, 2007. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel.

In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 12 to 15 ad hoc scientists. FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Scientific Advisory Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

In August, 2006, EPA published its Interim Reregistration Eligibility Decision (IRED) document announcing EPA's intention to cancel all uses of carbofuran due to ecological and occupational risks of concern, as well as dietary risks from residues on food crops and in contaminated drinking water. The IRED summarized the Agency's revised human health and ecological risk assessments of carbofuran based on available data, public comments, and other information received in response to the preliminary risk assessments. In developing its decision, the Agency used risk assessment methodologies that have been previously vetted by the Scientific Advisory Panel (SAP). Since the issuance of the IRED, the registrant has submitted for Agency review a number of studies addressing ecological and human dietary risk as well as other informational documents. EPA has reviewed all submitted data and documents, as well as additional data developed at the EPA Office of Research and Development. New data include comparative cholinesterase data in juvenile and adult rats, dermal toxicity in adult rats, brain acetylcholinesterase inhibition and recovery in birds, the effect of food-matrix on carbofuran toxicity in birds, and the effects of carbofuran on feeding behavior in birds. While these submissions have resulted in certain refinements to EPA's assessment, EPA continues to believe that all uses of carbofuran should be canceled for the reasons identified above. Therefore, pursuant to section 25(d) of FIFRA, EPA will be submitting for SAP review the action proposed in a draft FIFRA 6(b) Notice of Intent to Cancel carbofuran registrations. Accordingly, EPA is requesting the SAP panel members to review the underlying scientific assessments, and to render an opinion on the questions posed by the Agency, relating to the impact on health and the environment of the actions proposed.

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by mid-January 2008. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 13, 2007.

Elizabeth Resek,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. E7–22612 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8497–8]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Science Advisory Board Ecological Processes and Effects Committee

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 Ecological Processes and Effects Committee to discuss advisory activities for the coming year.

DATES: The SAB will hold a public teleconference on December 17, 2007. The teleconference will begin at 11 a.m. and end at 1 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 Ecological Processes and Effects Committee (EPEC) will hold a public teleconference to discuss advisory activities for the coming year. 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: The SAB EPEC has been asked to provide advice on two EPA activities in the coming year. To acquaint the EPEC with these activities, EPA will provide introductory briefings on: (1) The EPA Office of Research and Development Ecological Research Strategy and Multiyear Plan; (2) A methodology for deriving water quality criteria for protection of aquatic life based on mode of action. Preliminary background information on these activities follow. EPEC will also discuss possible additional self-initiated work.

Ecological Research Strategy and Multiyear Plan—EPA's Office of Research and Development (ORD) has requested that the SAB review the Agency's proposed Ecological Research Program Strategy and Multi-year Plan. The proposed research strategy is focused on developing an understanding of the ways in which management choices affect the type, quality, and magnitude of the goods and services received from ecosystems. ORD has requested that the SAB review the proposed approach and components of the research strategy and multiyear plan. ORD has also asked the SAB to comment on emerging research issues relative to ecosystem services.

Methodology for deriving water quality criteria for protection of aquatic life based on mode of action—EPA's Office of Water has developed a white paper that provides a scientific assessment of issues facing the Agency in deriving water quality criteria for chemicals such as pharmaceuticals and personal care products, particularly those exhibiting endocrine disrupting activity. The Office of Water has requested advice from the SAB on the overall approach and proposed scientific methodology for deriving water quality criteria for these compounds.

Availability of Meeting Materials: The draft agenda and other materials will be posted on the SAB Web Site at: *http://www.epa.gov/sab* prior to 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 public teleconference. *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 10, 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 10, 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 13, 2007.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–22661 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8497–9]

Science Advisory Board Staff Office; Notification of Public Teleconferences of the Science Advisory Board Integrated Nitrogen Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) Staff Office is announcing four public teleconferences of the SAB Integrated Nitrogen Committee.

DATES: The teleconferences will be held on December 13, 2007, January 17, February 13, and March 19, 2008. All teleconferences will be held from 2 p.m. to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain the call-in number and access code for the teleconferences or receive further information concerning the teleconferences may contact Ms. Kathleen White, Designated Federal Officer (DFO). Ms. White 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) 343–9878; *fax:* (202) 233–0643; or *e-mail at: white.kathleen@epa.gov.* General information concerning the EPA SAB can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: 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. Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB Integrated Nitrogen Committee will hold four public teleconferences to plan for its next face-to-face meeting scheduled for April 2008. The SAB Integrated Nitrogen Committee is conducting an evaluative study on the need for integrated research and control management strategies. To begin its work, the Committee held a public meeting on January 30–31, 2007, to develop a work plan for the study. Background information on that meeting was provided in a **Federal Register** notice (72 FR 1989, January 17, 2007). The Committee has furthered its work at several public teleconferences and meetings of June 20–22, 2007 and October 29–31, 2007 (72 FR 13492, March 22, 2007 and 72 FR 45425, August 14, 2007).

Availability of Meeting Materials: Materials in support of these teleconferences will be placed on the SAB Web site at: *http://www.epa.gov/sab* in advance of each teleconference.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB 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 five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Ms. White, DFO, at the contact information noted above, no later than one full week before a scheduled teleconference to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office a week before a scheduled teleconference so that the information may be made available to the Committee for their consideration prior to the teleconference. 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 at: white.kathleen@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Meeting Access: For information on access or services for individuals with disabilities, please contact Ms. White at (202) 343–9878 or *white.kathleen@epa.gov.* To request accommodation of a disability, please contact Ms. White, preferably at least 10 days prior to the teleconference 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. E7–22662 Filed 11–19–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 11, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Russellville Bancorp, Inc., Russellville, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Russellville, Russellville, Missouri.

Board of Governors of the Federal Reserve System, November 15, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–22633 Filed 11–19–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0221]

Civilian Board of Contract Appeals; Information Collection; Civilian Board of Contract Appeals Rules of Procedure

AGENCY: Civilian Board of Contract Appeals, GSA.

ACTION: Notice of request for comments regarding a revision to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration 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 regarding the Civilian Board of Contract Appeals (CBCA) Rules of Procedure. The clearance currently expires on January 31, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary 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; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: January 22, 2008.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Chief Counsel, Civilian Board of Contract Appeals, 1800 F Street, NW., Washington, DC 20405, telephone (202) 606–8800 or via e-mail to *Margaret.Pfunder@gsa.gov*.

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. 3090–0221, Civilian Board of Contract Appeals Rules Procedure, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The CBCA requires the information collected in order to conduct proceedings in contract appeals and petitions, and cost applications. Parties include those persons or entities filing appeals, petitions, cost applications, and government agencies.

B. Annual Reporting Burden

Respondents: 55.

Responses Per Respondent: 1.

Hours Per Response: .117.

Total Burden Hours: 6.4.

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. Please cite OMB Control No. 3090–0221, Civilian Board of Contract Appeals Rules of Procedure, in all correspondence.

Dated: October 30, 2007

Casey Coleman,

Chief Information Officer.

[FR Doc. E7–22603 Filed 11–19–07; 8:45 am]

BILLING CODE 6820–AL–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood Safety and Availability (ACBSA) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will take place Wednesday, January 9, 2008 and Thursday, January 10, 2008 from 9 a.m. to 5 p.m.

ADDRESSES: The Westin Washington, DC City Center, 1400 M Street, NW., Washington, DC 20005. Phone: (202) 429–1700.

FOR FURTHER INFORMATION CONTACT: Jerry A. Holmberg, PhD, Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootton Parkway, Room 250, Rockville, MD 20852, (240) 453–8803, Fax (240) 453–8456, e-mail *ACBSA@hhs.gov.*

SUPPLEMENTARY INFORMATION: Since the early 1980s there has been a heightened awareness of transfusion and transplantation safety. The formation of the ACBSA directly resulted out of concern regarding infectious diseases and the safety of the blood supply. At this session of the ACBSA, the Committee will discuss further safety developments to enhance transfusion and transplantation safety. These discussions will include the current landscape and residual risk of known and unknown pathogens. In addition, the Committee will look at needs and barriers to potential opportunities in donor screening and technologies for pathogen reduction.

The public will be given opportunity to provide comments to the Committee on January 9 and 10, 2008. Comments will be limited to five minutes per speaker. Anyone planning to comment is encouraged to contact the Executive Secretary at his/her earliest convenience. Those who wish to have printed material distributed to Advisory Committee members should submit, at a minimum, one copy of the material, to the Executive Secretary prior to close of business January 7, 2008. Likewise, those who wish to utilize electronic data projection to the Committee must submit their materials to the Executive Secretary prior to close of business January 7, 2008.

Dated: November 13, 2007.

Jerry A. Holmberg,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. E7–22653 Filed 11–19–07; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0220]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Animal Drug User Fee Cover Sheet, FDA Form 3546

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 20, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0539. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley Jr. Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Animal Drug User Fee Cover Sheet; FDA Form 3546; 21 U.S.C. 379j–12; (OMB Control Number: 0910–0539)—Extension

Under Section 740 of the act, as amended by ADUFA (21 U.S.C. 379j–12), FDA has the authority to assess and collect for certain animal drug user fees. Because the submission of user fees concurrently with applications and supplements is required, review of an application cannot begin until the fee is submitted. The types of fees that require a cover sheet, are certain animal drug application fees and certain supplemental animal drug application fees. The cover sheet FDA Form 3546, is designed to provide the minimum necessary information to determine whether a fee is required for the review of an application or supplement, to determine the amount of the fee required, and to assure that each animal drug user fee payment and each animal drug application for which payment is made, is appropriately linked to that payment. The form, when completed electronically, will result in the generation of a unique payment identification number used for tracking the payment. FDA will use the information collected to initiate administrative screening of new animal drug applications and supplements to determine if payment has been received.

In a **Federal Register** of June 15, 2007 (72 FR 33231), FDA published a 60-day notice soliciting public comment on the proposed collection of information provisions. In response to that notice, no comments were received.

Respondents to this collection of information are new animal drug sponsors applicants or manufacturers.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 U.S.C. 379j–12	Number of Respondents	Annual Frequency per Response	Total annual Responses	Hours per Response	Total Hours
740(a)(1) FDA Form 3546 (Cover Sheet)	69	1 time for each application	69	1	69

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 14, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–22649 Filed 11–19–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

FBI Fingerprint Fee

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that the fee collected by Customs and Border Protection regarding the submission of fingerprints for those applying for certain positions or requesting various identification cards which necessitate a fingerprint records check, will be raised to a total of $32.49 to offset the fee being charged Customs and Border Protection by the Federal Bureau of Investigation.

EFFECTIVE DATES: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Customs and Border Protection, Office of International Trade, Broker Compliance Branch, Tel. (202) 863–6543.

SUPPLEMENTARY INFORMATION:

Background

The Federal Bureau of Investigation (FBI) is authorized to charge a fee for processing fingerprint identification records for non-law enforcement employment and licensing purposes. See Note to 28 U.S.C. 534.

Customs and Border Protection (CBP) has traditionally used the FBI fingerprinting services. The Customs Regulations were amended by T.D. 93–18 (58 FR 15770, dated March 24, 1993) to provide that CBP will charge a fee to recover the FBI fingerprinting costs, plus an additional 15% of that amount to cover CBP administrative processing. The authority for CBP to assess such a fee is 31 U.S.C. 9701. The port director advises those required to submit the fee of the correct amount.

The current user fee charged by the FBI is $28.25. Accordingly, in this document, notice is hereby given that the fee charged by CBP will be raised to a total of $32.49: $28.25 representing the FBI portion of the fee, and $4.24 representing the 15% CBP charges to cover administrative processing.

Dated: November 15, 2007.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E7–22646 Filed 11–19–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–97]

Notice of Submission of Proposed Information Collection to OMB; Housing Discrimination Information Form (HUD–903.1)

AGENCY: Office of the Chief Information Officer, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information collection is necessary to establish HUD's jurisdiction to investigate housing discrimination complaints filed under the Fair Housing Act. The information is used to contact the aggrieved person, and to assess the complaint allegations.

DATES: *Comments Due Date:* December 20, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2529–0011) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Housing Discrimination Information Form (HUD–903.1).

OMB Approval Number: 2529–0011.

Form Numbers: Forms HUD–903.1 HUD–903.1A, HUD–903.1.B, HUD–903.1F, HUD–903.1KOR, HUD–903.1C, HUD–903.1CAM, HUD–903.1RUS.

Description of the Need for the Information and its Proposed Use: This information collection is necessary to establish HUD's jurisdiction to investigate housing discrimination complaints filed under the Fair Housing Act. The information is used to contact the aggrieved person, and to assess the complaint allegations.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	9,169	1		0.75		6,877

Total Estimated Burden Hours: 6,877.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 15, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–22685 Filed 11–19–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–96]

Notice of Submission of Proposed Information Collection to OMB; Lender Qualifications for Multifamily Accelerated Processing (MAP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

To participate in MAP, lenders will be required to show that they have an experienced multifamily underwriter on staff, a satisfactory record on lending on multifamily housing properties, and an acceptable Quality Control Plan. Qualified lenders can then take advantage of a mortgage application-processing plan that will take substantially less processing time than traditional processing.

DATES: *Comments Due Date: December 20, 2007.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0541) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www.5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Lender Qualifications for Multifamily Accelerated Processing (MAP).

OMB Approval Number: 2502–0541.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: To participate in MAP, lenders will be required to show that they have an experienced multifamily underwriter on staff, a satisfactory record on lending on multifamily housing properties, and an acceptable Quality Control Plan. Qualified lenders can then take advantage of a mortgage application-processing plan that will take substantially less processing time than traditional processing.

Frequency of Submission: On occasion, Annually.

	Number of Respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	85	1		1.44		123

Total Estimated Burden Hours: 123.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 14, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–22699 Filed 11–19–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–95]

Notice of Submission of Proposed Information Collection to OMB; Public Housing 5-Year and Annual PHA Plan

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

PHA are required to submit annual and 5-Year Plans to HUD as required by section 5A of the United States Housing Act of 1937 (42 U.S.C.1437c–1). The purpose of the plan is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services.

DATES: *Comments Due Date: December 20, 2007.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0226) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Public Housing 5-Year and Annual PHA Plan.

OMB Approval Number: 2577–0226.

Form Numbers: HUD–50075, HUD–50077; HUD–50070; SF–LLL; SF–LLL–A.

Description of the Need for the Information and its Proposed Use: PHA are required to submit annual and 5-Year Plans to HUD as required by section 5A of the United States Housing Act of 1937 (42 U.S.C.1437c–1). The purpose of the plan is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	4139	1		12.68		52,512

Total Estimated Burden Hours: 52,512

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 14, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–22700 Filed 11–19–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5100–FA–24]

Announcement of Funding Awards Fair Housing Initiatives Program Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, the Department of Housing and Urban Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the SuperNotice of Funding Availability (SuperNOFA) for the Fair Housing Initiatives Program (FHIP) for Fiscal Year (FY) 2007. This announcement contains the names and addresses of those award recipients selected for funding based on the rating and ranking of all applications and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Myron Newry, Director, FHIP Support Division, Office of Programs, Room 5230, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 708–2215 (this is not a toll-free number). A telecommunications device (TTY) for hearing and speech impaired persons is available at 1–800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (the Fair Housing Act) charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616, established FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

The Department announced under separate solicitations in the **Federal Register** on January 18, 2007 (72 FR 11, pp 2396–2420 [General Section]) and March 13, 2007 (72 FR 48, pp 11506–11523), the availability of approximately $18,100,000 out of a FY 2007 appropriation of $20,000,000 and any potential recapture, to be utilized for FHIP projects and activities with approximately $1,900,000 designated for continuation of contracts with activities for the sixth option year under the Accessibility First Project, formerly the Project for Training and Technical Assistance Guidance (PATTG), and other contracts. However, the Office of Management and Budget (Congress) issued a Recession Order and $200,000.00 was charged against the initial appropriation resulting in a reduced appropriation of $19,800,000. Accordingly, the amount available for contracts was reduced to $1,700,000. Funding availability for discretionary grants follows: the Private Enforcement Initiative (PEI/$14,000,000) and the Education and Outreach Initiative (EOI) ($4,100,000).

This Notice announces awards of approximately $18,100,000 to 88 organizations and $1,700,000.00 to three contractors.

The Department reviewed, evaluated and scored the applications received based on the criteria in the FY 2007 SuperNOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing details concerning the recipients of funding awards in Appendix A of this document.

The Catalog of Federal Domestic Assistance Number for currently funded Initiatives under the Fair Housing Initiatives Program is 14.408.

Dated: November 13, 2007.

Kim Kendrick,

Assistant Secretary for Fair Housing and Equal Opportunity.

FAIR HOUSING INITIATIVES PROGRAM AWARDS FY 2007

Applicant name	Contact person	Region	Award amount
Education and Outreach Initiative—General			
Champlain Valley Office of Economic Opportunity, P.O. Box 163, Burlington, VT 05402.	Robert Meehan, ph. 802–651–0551	01	$100,000.00
HAP, Inc., 322 Main Street, Springfield, MA 01105	Carol Walker, ph. 413–233–1668, fax 413–731–8723.	01	81,365.00
Citizen Action of New Jersey, 744 Broad Street, Newark, NJ 07102	Leila Amirhamzeh, ph. 973–643–8800, fax 973–643–8100.	02	100,000.00
Housing Council in the Monroe County Area, Inc., 183 East Main Street, Rochester, NY 14604.	Alexander Castro, ph. 585–546–3700 Ext 3013, fax 585–546–5061.	02	73,390.00
Delaware Community Reinvestment Action Council, Inc., 601 North Church Street, Wilmington, DE 19801.	Rashmi Rangan, ph. 302–654–5024, fax 302–654–5046.	03	80,000.00
Housing Opportunities Made Equal of Virginia, Inc., 700 East Franklin Street, Suite 3–A, Richmond, VA 23219.	Lorae Ponder, ph. 804–354–0641, fax 804–354–0690.	03	100,000.00
National Community Reinvestment Coalition, 727 15th St, NW., Washington, DC 20005.	David Berenbaum, ph. 202–628–8866	03	100,000.00
Northern West Virginia Center For Independent Living, 601–3 E. Brockway Ave., Morgantown, WV 26501.	Jan Derry, ph. 304–296–6091, fax 304–292–5217.	03	99,976.00

FAIR HOUSING INITIATIVES PROGRAM AWARDS FY 2007—Continued

Applicant name	Contact person	Region	Award amount
Southwestern Pennsylvania Legal Services, Inc., 10 West Cherry Ave., Washington, PA 15301.	Robert Brenner, ph. 724–225–6170, fax 724–250–1076.	03	100,000.00
Kentucky Commission on Human Rights, 332 W. Broadway, Suite 700, Louisville, KY 40202.	Cynthia Fox, ph. 502–595–4024 x18, fax 502–595–4801.	04	99,800.00
Legal Services of North Florida, Inc., 2119 Delta Blvd., Tallahassee, FL 32303.	John Fenno, ph. 850–385–9007 Ex. 15, fax 850–385–5684.	04	100,000.00
The Fair Housing Agency of Alabama, 574 Azalea Road, Suite 124, Mobile, AL 36609.	Enrique Lang, ph. 251–660–7733, fax 251–660–7734.	04	99,905.00
The University of Southern Mississippi, 118 College Drive #5157, Hattiesburg, MS 39406.	Constance Wyldmon, ph. 601–266–4119, fax 601–266–4312.	04	100,000.00
Waccamaw Regional Council of Governments, 1230 Highmarket St., Georgetown, SC 29440.	Amy Lowe, ph. 843–546–8502, fax 843–527–2302.	04	74,951.00
ACORN Housing Corporation, 757 Raymond Ave., Saint Paul, MN 55114.	Alexa Milton, ph. 651–203–0008, fax 651–203–1046.	05	100,000.00
Advocacy Center, 1010 Common Street, Suite 2600, New Orleans, LA 70112.	Lois Simpson, ph. 504–522–2337 ext 118, fax 504–522–5507.	05	100,000.00
Fair Housing Center of Southwest Michigan, 410 E. Michigan, Kalamazoo, MI 49007.	Robert Ells ph. 269–276–9100, fax 269–276–9101.	05	97,229.00
Housing Research & Advocacy Center, 3631 Perkins Ave., Cleveland, OH 44114.	Jeffrey Dillman, ph. 216–361–9240, fax 216–426–1290.	05	100,000.00
Metropolitan Milwaukee Fair Housing Council, Inc., 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, ph. 414–278–1240, fax 414–278–8033.	05	100,000.00
Oak Park Regional Housing Center, 1041 South Boulevard, Oak Park, IL 60302.	James Breymaier, ph. 708–848–7150, fax 708–848–7165.	05	99,780.00
Arkansas Community Housing Corporation, 2101 Main Street, Little Rock, AR 72206–1527.	Dickson Bell, ph. 501–374–2114, fax 501–376–3952.	06	99,948.00
Garland Fair Housing Office, 210 Carver Dr., Ste. 102A, Garland, TX 75040.	Jose Alvarado, ph. 972–205–3316, fax 972–205–3304.	06	100,000.00
New Mexico ACORN Fair Housing, 411 Bellamah, NW., Albuquerque, NM 87102–1315.	Matthew Henderson, ph. 505–242–7411, fax 505–244–1090.	06	99,757.00
Iowa Civil Rights Commission, Grimes State Office, Building, Des Moines, IA 50319–1004.	Dawn Peterson, ph. 515–281–8086, fax 515–242–5840.	07	95,569.00
The Urban League of Metropolitan St. Louis, Inc., 3701 Grandel Square, St. Louis, MO 63108.	Victoria Reaves, ph. 314–388–9840, Ext. 115, fax 314–388–9845.	07	100,000.00
American Institute for Social Justice, 125 W. 10th Ave., Denver, CO 80204.	Valerie Coffin, ph. 504–207–0088, fax 202–546–2483.	08	99,887.00
City of Billings, 510 North Broadway, Billings, MT 59103	Brenda Beckett, ph. 406–657–8286, fax 406–657–8327.	08	99,923.00
Disability Law Center, 205 North 400 West, Salt Lake City, UT 84103.	Matt Knotts, ph. 801–363–1347, fax 801–363–1437.	08	100,000.00
Greater Napa Fair Housing Center, 601 Cabot Way, Napa, CA 94559.	Stephen Cogswell, ph. 707–224–9720, fax 707–224–1566.	09	99,990.00
SILVER STATE FAIR HOUSING COUNCIL, 855 E. Fourth Street, Suite E, Reno, NV 89512.	Katherine Copeland, ph. 775–324–0990, fax 775–324–7507.	09	100,000.00
Southwest Fair Housing Council, 2030 E Broadway Blvd, Suite 101, Tucson, AZ 85719.	Richard Rhey, ph. 520–798–1568, fax 520–620–6796.	09	98,745.00
Legal Aid Services of Oregon, 921 S.W. Washington St., Suite 570, Portland, OR 97205.	Thomas Matsuda, ph. 503–471–1159, fax 503–417–0147.	10	99,785.00
Education and Outreach Initiative—National Media Campaign Component			
Pacific News Service, 275 Ninth St., San Francisco, CA 94103	Sandy Close, ph. 415–503–4170, fax 415–503–0970.	09	1,000,000.00
Private Enforcement Initiative—General			
Legal Assistance Corporation of Central Massachusetts, 405 Main Street, Worcester, MA 01608.	Jonathan Mannina, ph. 508–752–3718, fax 508–752–5918.	01	230,000.00
National Community Reinvestment Coalition, 727 15th St., NW, Washington, DC 20005.	David Berenbaum, ph. 202–628–8866	03	199,848.00
The Fair Housing Partnership of Greater Pittsburgh, Inc., 2840 Liberty Ave., Suite 205, Pittsburgh, PA 15222.	Peter Harvey, ph. 412–391–2535	03	275,000.00
Housing Opportunities Project for Excellence, Inc., 18441 NW 2nd Avenue, Miami Gardens, FL 33169.	Keenya Robertson, ph. 305–651–4673, fax 305–493–0108.	04	275,000.00
Memphis Area Legal Services, Inc., 109 North Main, Suite 201, Memphis, TN 38103–5021.	Jacqueline Cobbins, ph. 901–432–4663, fax 901–529–8706.	04	274,973.00
Mississippi Center for Legal Services Corporation, 111 East Front Street, Hattiesburg, MS 39401.	Sam Buchanan, ph. 601–545–2950, fax 601–545–2935.	04	275,000.00
Mobile Fair Housing Center, Inc., PO Box 161202, Mobile, AL 36616–2202.	Teresa Bettis, ph. 251–479–1532, fax 251–479–1488.	04	70,326.94
Fair Housing Center of Metropolitan Detroit, Room 1312, Detroit, MI 48226–1860.	Clifford Schrupp, ph. 313–963–1274, fax 313–963–4817.	05	133,280.00

FAIR HOUSING INITIATIVES PROGRAM AWARDS FY 2007—Continued

Applicant name	Contact person	Region	Award amount
Fair Housing Center of West Michigan, 20 Hall St., SE, Grand Rapids, MI 49507.	Nancy Haynes, ph. 616–451–2980, fax 616–451–2657.	05	273,786.00
Interfaith Housing Center of the Northern Suburbs, 620 Lincoln Ave., Winnetka, IL 60093.	Gail Schechter, ph. 847–501–5760, fax 847–501–5722.	05	275,000.00
Legal Services of Eastern Michigan, 436 S. Saginaw Street, Flint, MI 48502.	Teresa Trantham, ph. 810–234–2621, fax 810–234–9039.	05	207,449.00
The Housing Advocates, Inc., 3214 Prospect Avenue, East, Cleveland, OH 44115–2614.	Edward Kramer, ph. 216–431–7400 ext 106, fax 216–431–6149.	05	275,000.00
Greater New Orleans Fair Housing Action Center, 228 St. Charles Avenue, Suite 1035, New Orleans, LA 70130.	James Perry, ph. 504–596–2100, fax 504–596–2004.	06	275,000.00
Metropolitan Fair Housing Council, 1500 NE 4th Street, Suite 204, Oklahoma City, OK 73117.	George Wesley, ph. 405–232–3247, fax 405–232–5119.	06	274,800.00
San Antonio Fair Housing Council, Inc., 4203 Woodcock Drive, Suite 216, San Antonio, TX 78228.	Sandra Tamez, ph. 210–733–3247, fax 210–733–6670.	06	275,000.00
Orange County Fair Housing Council, Inc., 201 S. Broadway, Santa Ana, CA 92701–5633.	David Levy, ph. 714–569–0823 ext. 204, fax 714–835–0281.	09	162,700.00
Private Enforcement Initiative—Performance Based Component			
Fair Housing Center of Greater Boston, 59 Temple Place, Boston, MA 02111.	David Harris, ph. 617–399–0492, fax 617–399–0492.	01	274,166.67
Housing Discrimination Project, Inc., 57 Suffolk Street, Holyoke, MA 01040.	Jamie Williamson, ph. 413–539–9796 x108, fax 413–533–9978.	01	275,000.00
Fair Housing Council of New York, Inc., 327 West Fayette Street, Syracuse, NY 13202.	Merrilee Witherell, ph. 315–471–0420, fax 315–471–0549.	02	211,346.00
Fair Housing Council of Northern New Jersey, 131 Main Street, Suite 140, Hackensack, NJ 07601.	Lee Porter, ph. 201–489–3552, fax 201–489–8472.	02	275,000.00
Long Island Housing Services, Inc., 3900 Veterans Memorial Highway, Bohemia, NY 11761.	Michelle Santantonio, ph. 631–467–5111, fax 631–467–5131.	02	270,417.00
South Brooklyn Legal Services, 105 Court, Brooklyn, NY 11201	Josh Zinner ph. 718–237–5567, fax 718–855–0733.	02	183,333.00
Fair Housing Council of Montgomery County, 105 East Glenside Avenue, Glenside, PA 19038.	Elizabeth Albert, ph. 215–576–7711, fax 215–576–1509.	03	270,000.00
Fair Housing Council of Suburban Philadelphia, Inc., 225 South Chester Street, Swarthmore, PA 19081.	James Berry, ph. 610–604–4411, fax 610–604–4424.	03	275,000.00
Bay Area Legal Services, Inc., (3), 829 W. MLK Jr. Blvd., Suite 200, Tampa, FL 33603–3336.	Richard Woltmann, ph. 813–232–1222 ext.137, fax 813–232–1403.	04	234,973.33
Central Alabama Fair Housing Center, 1817 West Second Street, Montgomery, AL 36106.	Faith Cooper, ph. 334–263–4663, fax 334–263–4664.	04	274,000.00
Fair Housing Center of Northern Alabama, 1728 3rd Avenue, Birmingham, AL 35203.	Lila Hackett, ph. 205–324–0111, fax 205–320–0238.	04	275,000.00
Fair Housing Continuum, Inc., 840 Cocoa Boulevard, Cocoa, FL 32922.	David Baade, ph. 321–633–4451, fax 321–633–5198.	04	275,000.00
Jacksonville Area Legal Aid, Inc., 126 West Adam Street, Jacksonville, FL 32202.	Michael Figgins, ph. 904–356–8371, fax 904–356–8780.	04	274,972.67
Lexington Fair Housing Council, 205 East Reynolds Road, Lexington, KY 40517.	Author Crosby, ph. 859–971–8067, fax 859–971–1652.	04	205,258.00
West Tennessee Legal Services, Inc., 210 West Main Street, Jackson, TN 38302.	Carol Gish, ph. 731–426–1309, fax 731–423–2600.	04	275,000.00
Access Living of Metropolitan Chicago, 115 West Chicago Avenue, Chicago, IL 60610.	Mimi Alschuler, ph. 312–640–2198, fax 312–640–2101.	05	275,000.00
Chicago Lawyers Committee for Civil Rights Under Law, Inc., 100 North LaSalle Street, Chicago, IL 60602.	Gaylene Henry, ph. 312–630–9744, fax 312–630–1127.	05	274,994.00
Fair Housing Opportunities Inc., dba Fair Housing Center, 432 North Superior, Toledo, OH 43604.	Michael Marsh, ph. 419–243–6163, fax 419–243–6163.	05	275,000.00
HOPE Fair Housing Center, 2100 Manchester Road, Wheaton, IL 60187.	Bernard Kleina, ph. 630–690–6500, fax 630–690–6586.	05	274,702.33
Housing Opportunities Made Equal of Greater Cincinnati, Inc., 2400 Reading Road, Ste. 404, Cincinnati, OH 45202.	Elizabeth Brown, ph. 513–721–4663, fax 513–721–1642.	05	273,815.39
Housing Research & Advocacy Center, 3631 Perkins Ave., Cleveland, OH 44114.	Jeffrey Dillman, ph. 216–361–9240, fax 216–426–1290.	05	275,000.00
John Marshall Law School, 315 South Plymouth Court, Chicago, IL 60604.	Michael Seng, ph. 312–987–2397, fax 312–427–9438.	05	274,958.00
Legal Aid Society of Minneapolis, 430 First Avenue North, Suite 300, Minneapolis, MN 55401–1780.	Lisa Cohen, ph. 612–746–3770, fax 612–334–5755.	05	275,000.00
Metropolitan Milwaukee Fair Housing Council, 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, ph. 414–278–1240, fax 414–278–8033.	05	274,996.00
Miami Valley Fair Housing Center, Inc., 21–23 East Babbitt Street, Dayton, OH 45405.	Jim McCarthy, ph. 937–223–6035, fax 937–223–6279.	05	275,000.00
South Suburban Housing Center, 18220 Harwood Avenue, Homewood, IL 60430.	John Petruszak, ph. 708–957–4674, fax 708–957–4761.	05	262,500.00

FAIR HOUSING INITIATIVES PROGRAM AWARDS FY 2007—Continued

Applicant name	Contact person	Region	Award amount
Austin Tenants Council Inc., 1640 B E 2nd St. Suite 150, Austin, TX 78702.	Katherine Stark, ph. 512–474–7007 x113, fax 512–474–0197.	06	274,707.00
Family Housing Advisory Services, Inc., 2410 Lake Street, Omaha, NE 68111.	Teresa Hunter, ph. 402–934–6657, fax 402–934–7928.	07	275,000.00
Metropolitan Saint Louis Equal Housing Opportunity Council, 1027 S. Vandeventer, Saint Louis, MO 63110.	Willie Jordan, ph. 314–534–5800 Ext 21, fax 314–534–2551.	07	224,379.00
Fair Housing of the Dakotas, 533 Airport Road, Suite C, Bismarck, ND 58504.	Amy Nelson, ph. 701–221–2530, fax 701–221–9597.	08	220,545.67
Bay Area Legal Aid, 405 14th Street, Oakland, CA 94612	Jaclin Pinero, ph. 510–250–5229, fax 510–663–4719.	09	275,000.00
California Rural Legal Assistance, 631 Howard Street, San Francisco, CA 94105.	Ilene Jacobs, ph. 530–742–7235, fax 530–742–0854.	09	275,000.00
Fair Housing of Marin, 615 B Street, San Rafael, CA 94901	Nancy Kenyon, ph. 415–457–5025, fax 415–457–6382.	09	275,000.00
Inland Mediation Board, 60 East 9th Street, Upland, CA 91786–6097.	Lynne Anderson, ph. 909–984–2254, x114, fax 909–460–0274.	09	275,000.00
Project Sentinal Inc., 460 Sherman Avenue, Palo Alto, CA 94306 ...	Ann Marquart, ph. 650–321–6291, fax 650–321–4173.	09	270,000.00
Silver State Fair Housing Council, 855 E. Fourth Street, Reno, NV 89512.	Katherine Copeland, ph. 775–324–0990, fax 775–324–7507.	09	203,629.00
Southwest Fair Housing Council, 2030 Broadway Boulevard, Tucson, AZ 85719.	Richard Rhey, ph. 520–798–1568, fax 520–620–6796.	09	270,144.00
Fair Housing Center of South Puget Sound, 1517 South Fawcett, Tacoma, WA 98402.	Lauren Walker, ph. 253–274–9523, fax 253–274–8220.	10	275,000.00
Northwest Fair Housing Alliance, 35 W. Main, Suite 250, Spokane, WA 99201.	Marley Eichstaedt, ph. 509–325–2665 Ext. 0#, fax 509–325–2716.	10	275,000.00

[FR Doc. E7–22611 Filed 11–19–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–15]

Privacy Act of 1974; Notice of a New System of Records, Single Family Insurance System CLAIMS Subsystem

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a new System of Records, Single Family Insurance System CLAIMS Subsystem.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), HUD's Single Family Claims Branch is providing notification of the establishment of this new record system, the Single Family Insurance System CLAIMS Subsystem, A43C. The purpose of A43C is to collect, maintain and verify data needed to support the claim payment activities received from mortgagees.

DATES: *Effective Date:* This action shall be effective without further notice on December 20, 2007 unless comments are received which will result in a contrary determination.

Comments Due Date: December 20, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Any communications should make reference to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, 451 Seventh St., SW., Room 4156, Washington, DC 20410, Telephone Number (202) 619–9057. (This is not a toll-free number.) A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e) (4) and (11) provides that the public be afforded a 30-day period in which to comment on the new systems of records, and require published notice of the existence and character of the system of records.

The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' July 25, 1994; 59 FR 37914.

Authority: 5 U.S.C. 552a 88 Stat. 1896; 342 U.S.C. 3535(d).

Dated: November 9, 2007.

Walter Harris,

Acting Chief Information Officer.

HUD/SFH–02

SYSTEM NAME:

Single Family Insurance Claims Subsystem (A43C)

SYSTEM LOCATION:

The CLAIMS system hardware is located on HUD's mainframe, which is in Charleston, WV. Backup facilities are provided by SUNGUARD in Philadelphia, PA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A43C maintains data on mortgagors that have obtained a HUD insured mortgage. The system also records the servicer and holder of HUD insured mortgages.

CATEGORIES OF RECORDS IN THE SYSTEM:

The application includes data such as case number, the mortgagor's name, Social Security Number and property address, and mortgage amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1937 as amended (Pub. L. 75–412).

DESCRIPTION AND SYSTEM PURPOSES:

The Single Family Insurance Claims Subsystem (CLAIMS) processes single family (SF) insurance claims against defaulted loans. CLAIMS also processes accounts receivables relating to SF claims, performs collection activities, processes cash receipts, and records accounts receivable activities as well as providing accounting information to users. The claims process is initiated when a servicing mortgagee completes and submits an application for Single Family Insurance Benefits (HUD Form 27011) to HUD headquarters, via Electronic Data Interchange (EDI), the FHA Connection, or paper. Each type of claim requires the submission of a Part A (Initial Application) and Part B (Fiscal Data). When submitting a paper conveyance claim, a Title Approval Letter (TAL) must accompany the claim. However, when transmitting the claim through EDI, the TAL is not submitted with the conveyance claim because the title approval data from A80S-Single Family Acquired Asset Management System (SAMS) is stored in an authorization file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552 a(b) of the Privacy Act, other routine uses are as follows:

1. U.S. Treasury: A43C provides the EFT disbursement information to Treasury for claim payments.

2. Claims Lockbox: SFICS receives batches of AR cases from U.S. Bank. Processing is performed on a daily basis following FedEx delivery of the schedule from U.S. Bank.

3. CENCOR: Automated mailing contractor—Advice of Payment, (AOP), Billing, and Title Approval letters.

4. Federal Housing Administration (FHA)-Approved Lenders: Lenders submit claims using the Single Family Application for Insurance Benefits (Form HUD–27011) via Electronic Data Interchange (EDI), the FHA Connection, or paper. Form HUD–27011 includes PII such as name, Social Security Number, and property address. Upon analysis of the claim, the lender will receive from HUD TS824, ''Request for Correction'', stating any deficiencies that need to be corrected, or TS820, AOP, informing the lender that the claim has been paid.

5. SFIS (A43): The purpose of the outgoing interface to SFIS is to update the FHA insurance status to ''CLAIM'' and to provide an effective date for the status change upon authorization of a claim for payment.

6. CAIVRS (F57): Outgoing—With authorized lenders and Federal agencies for the purpose of prescreening applicants for loans or loans guaranteed by the Federal Government for the purpose of evaluating a loan applicant's creditworthiness. Provision of the Social Security Numbers of mortgagors associated with the initial claim payment (Part A) over the past three years.

7. FHASL (PO13): FHASL is provided with paid claims fiscal data from SFICS and Loss Mitigation on a daily and monthly basis.

8. SFHEDW (D64A): SFICS data is extracted and uploaded to the SFHEDW for analysis on a weekly basis

9. CHUMS (F17): SFICS receives indemnification information related to specific cases from CHUMS on a daily basis.

10. SAMS (A80S): Outgoing—Provides financial information for paid Conveyance claims or paid Supplemental claims with an original paid Conveyance claim on a daily basis. Additionally, the SAMS extract file (from ARS) provides case-level information for established and adjusted receivables on a monthly basis. Incoming—Defines whether Title Evidence was approved; title approval is a pre-requisite for processing Part B Conveyance claims.

11. SFMNS/IFS (A80N): Provides the Strategy Group with paid Loss Mitigation—Partial Claims (Claim Type 33) data daily for the monitoring of these Secretary-held subordinate notes.

12. FHAC (F17C): Outgoing—Provides lenders and HUD users with case status information and title approval via the Internet. Incoming—Provides the capability for authorized lender employees to submit individual claims for specified claim types.

13. IMF (F51): SFICS accesses the IMF to obtain lender institution information for the purpose of EFT payment and address generation.

14. EDIS (U26A): Transfer of the TS 998 to confirm receipt of a claim transmitted via Electronic Data Interchange. Transfer of the TS 820 and TS824 files to the respective trading partners for the servicer or holder to indicate either payment or suspension of incoming claims received as TS260 transactions. The TS824 transactions are error records from the A43C batch load process.

15. GNMA: Provides GNMA with paid claims information for FHA-insured loans in GNMA pools.

16. Fannie Mae: Fannie Mae, as a holder, receives data regarding paid claims information for FHA-insured loans through an Advice of Payment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various types of storage media are used depending on the method used for filing a claim. Paper claims are filed at our contractor's office after processing, while disks and tapes are used to store electronic records in multiple computer record systems.

RETRIEVABILITY:

Data regarding a claim filed on a HUD insured property is obtained using the FHA Case Number, property address, mortgagor's name, mortgagee servicing number, or mortgagee holder number.

SAFEGUARDS:

Safeguards that are in place include:

• Lockable file cabinets;
• Secured computer facilities at HUD and their contractor's offices;
• Background checks of all HUD employees and contractor staff;
• Computer access to the multiple HUD record systems is restricted by passwords, defined individual access profiles (least privileges), and access to specified data fields is restricted. Users, whether at HUD Headquarters or the Homeownership Centers, obtain access to CLAIMS through a HUD INET communication link from their LAN to the IBM mainframe computer;
• Data is transmitted over secure T–1 and Shiva lines;
• Information about conveyed properties is available to the public via the Internet for marketing purposes. However, information covered by the Privacy Act of 1974 and the Right to Financial Privacy Act (12 U.S.C. 3401) is not incorporated in any Internet site.

RETENTION AND DISPOSAL:

Depending on the age of the records, obsolete records are either sent to a storage facility or destroyed in accordance with HUD Housing Handbook 2226.1, Chapter 3 and Appendix 20 of HUD Housing Handbook 2225.6.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Post Insurance Division and Chief, Single Family Claims Branch; HUD, 451 7th Street, SW., Room 6248, Washington, DC 20410.

NOTIFICATION AND RECORDS ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned are in accordance with 24 CFR part 16—Implementation of the Privacy Act of 1974. Individuals seeking information, assistance, or inquiry about the existence of records can contact the Departmental Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4156, Washington, DC 20410. Written requests must include the full name, current address, and telephone number of the individual making the request, as well as proof of identity, including a description of the requester's relation to the information in question.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to an individual's records appear in 24 CFR Part 16—Implementation of the Privacy Act of 1974. If additional information or assistance is required, contact the Departmental Privacy Act Officer.

CONTESTING RECORD PROCEDURES:

The procedures for contesting the contents of records and appealing initial denials appear in 24 CFR Part 16—Implementation of the Privacy Act of 1974. If additional information or assistance is required, contact:

(i) The Departmental Privacy Act Officer, HUD; 451 7th St., SW., Room 4156, Washington, DC 20410, if contesting the content of records; or

(ii) The Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development; 451 7th St., SW., Washington, DC 20410, for appeals of initial denials.

RECORD SOURCE CATEGORIES:

Record source categories include HUD/FHA Claims for Insurance Benefits, subject individuals; other individuals; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies; real estate brokers and agents.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–22607 Filed 11–16–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–16]

Privacy Act of 1974; Notice of a New System of Records, Single Family Default Monitoring System

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a new System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), HUD's Single Family Housing, Office of Evaluation is providing notice of its intent to establish a new record system, entitled the Single Family Default Monitoring System (SFDMS). The new record system contains information on FHA mortgage loans that are 90 days or more delinquent on a mortgage payment. The system will be utilized to track debt servicing activities submitted to the Department on behalf of the mortgagee's or loan servicer.

DATES: *Effective Date:* This action shall be effective without further notice on December 20, 2007 unless comments are received which will result in a contrary determination.

Comments Due Date: December 20, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Any communications should make reference to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, 451 Seventh Street, SW., Room 4156, Washington, DC 20410, telephone number (202) 619–9057. (This is not a toll-free number.) A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be afforded a 30-day period in which to comment on the new systems of records, and require published notice of the existence and character of the system of records.

The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' July 25, 1994 (59 FR 37914).

Authority: 5 U.S.C. 552a 88 Stat. 1896; 342 U.S.C. 3535(d).

Dated: November 9, 2007.

Walter Harris,

Acting Chief Information Officer.

HUD/SFH–01

SYSTEM NAME:

Single Family Default Monitoring System, SFDMS, F42D.

SYSTEM LOCATION:

HUD Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Single-family FHA loan borrowers and mortgagors.

CATEGORIES OF RECORDS IN THE SYSTEM:

FHA insured loan borrowers who are late in their monthly mortgage payment to their FHA loan financial institution. Information includes borrowers and mortgagors name, property address, Social Security Number, FHA Case Number, ADP Code, case file number, Notices of delinquent mortgages; requests for forebearance or assignment; forebearances or assignment reviews include data on mortgage amount and payments made, employment and income, financial institution names and routing numbers, mortgagor's account number, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forebearance agreements; deeds of trust; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1934, Pub.L. 73–479, Sec. 209; Sec. 114(a), Housing Act of 1959 (Pub. L. 86–372), 12 U.S.C. 1702 et seq.

PURPOSES:

The Single Family Default Monitoring System is a subsystem of F42. When a mortgage is 90 or more days or more delinquent, the Mortgagee or Servicer must submit a Single Family Form 92068–a to HUD on a monthly basis until its status has been completed by all Mortgagees and/or is terminated or deleted. Mortgagees and Servicers provide default data via Electronic Data Interchange (EDI) or using the WEB via FHA connection to HUD where they are sorted, pre-screened, key entered, edited, processed and reports are generated for HUD Headquarters and Field Offices review.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, other routine uses are as follows: Disclosure external to HUD:

(a) To FHA—for insurance investigations and underwriting.

(b) To the Internal Revenue Service and the General Accounting Office for investigations.

(c) To state banking agencies to aid in processing mortgagor complaints.

(d) To mortgagees—to verify information provided by new loan applicants and to evaluate credit worthiness.

(e) To counseling agencies for counseling.

(f) To Legal Aid—to assist mortgagors.

(g) To other Federal agencies for the purposes of collecting debts owed to the Federal Government by administrative or salary offset.

(i) To prospective purchasers—for sale of mortgages, loans or insurance premiums or charges.

Internal HUD Systems:

(a) To CAIVRS (Credit Alert Interactive Verification Response System) which is a HUD-sponsored database that makes a federal debtor's delinquency and claim information available to federal lending and assistance agencies and private lenders who issue federally insured or guaranteed loans for the purpose of evaluating a loan applicant's creditworthiness.

(b) To Single Family Housing Enterprise Data Warehouse—The delinquency and default data is contained in SFDW for allowing FHA officials and employees to view Single Family insured loans from cradle to grave. This comprehensive and unique view allows staff to help troubled homeowners through referrals to counseling agencies or refinancing/workout agreements. FHA staff also uses the data to review underwriting policy and perform additional risk analysis including actuarial soundness.

(c) To Single Family Neighborhood Watch—The lenders use this system to provide error feedback; and to view the data they have submitted over time and compare their performance to the industry average in various geographical areas including metropolitan area.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

magnetic tapes, drums, and discs.

RETRIEVABILITY:

Name; case file number, property address and social security number.

SAFEGUARDS:

Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area.

Technical restraints are employed with regard to accessing the computer and data files. Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records system is active and kept up-to-date. All electronic records are maintained in the system and not removed. Paper records do not exist.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office and Evaluation, HWE, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2228, Washington, DC 20410; Director, Single Family Servicing Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

NOTIFICATION AND RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. For information, assistance, or inquiry about existence of records, contact the Departmental Privacy Act Officer, 451 Seventh Street, SW., Room 4156, Washington, DC 20410. Written request must include the full name, current address, and telephone number of the individual making the request, including a description of the requester's relationship to the information in question. The system manager will also accept inquires from individuals seeking notification of whether the system contains records pertaining to them.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR part 16. If additional information or assistance is needed, it may be obtained by contacting:

(i) In relation to contesting contents of records, the Departmental Privacy Act Officer, 451 Seventh Street SW., Suite 4156, Washington, DC 20410; and,

(ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–22608 Filed 11–19–07; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

DATES: Written data, comments or requests must be received by December 20, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Duke University Primate Center, Durham, NC, PRT–165286.

The applicant requests a permit to export cadavers of two captive born ring-tailed lemurs (*Lemur catta*) to the Anthropologisches Institut Museum, Zurich, Switzerland for the purpose of scientific research.

Applicant: The Institute of Environmental and Human Health, Texas Tech University, Lubbock, TX, PRT–167549.

The applicant requests a permit to import biological samples from American crocodile (*Crocodylus acutus*) from Costa Rica for the purpose of scientific research. This notification covers activities conducted by the applicant over a five-year period.

Applicant: H & R Sales, Inc., Patio Ranch, Hunt, TX, PRT 704025.

The applicant requests renewal of their permit authorizing take, interstate and foreign commerce of Arabian oryx (*Oryx leucoryx*) and swamp deer (*Cervus duvaucelii*) from their captive herd for the purpose of enhancement of the survival of the species. This notification covers activities conducted by the applicant over a five-year period.

Applicant: Virginia Aquarium, Virginia Beach, VA, PRT–167974.

The applicant requests a permit to import one captive born female false gavial (*Tomistoma schlegelii*) from the Toronto Zoo, Ontario, Canada for the purpose of enhancement of the species through captive breeding.

Applicant: Donald A. Langrock, Williams, CA, PRT–167636.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Russell L. Lovemore, Pleasanton, CA, PRT–168138.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et. seq.), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Steve W. Blankenship, Chehalis, WA, PRT–164385.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: November 2, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–22640 Filed 11–19–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of an information collection (1028–0070).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements for ''Consolidated consumers' Report (Form 9–4117–MA).'' This notice also provides the public a second opportunity to comment on the paperwork burden of this form.

DATES: Submit written comments by December 20, 2007.

ADDRESSES: Please submit comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via OMB e-mail: (*OIRA_DOCKET@omb.eop.gov*); or by fax (202) 395–6566; and identify your submission with #1028–0070.

Please also submit a copy of your comments to the Department of the Interior, USGS, via:

- *E-mail: atravnic@usgs.gov*. Use information Collection Number 1028–0070 in the subject line.
- *Fax:* (703) 648–7069. Use Information Collection Number 1028–0070 in the subject line.
- Mail or hand-carry comments to the Department of the Interior; USGS Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. Please reference Information Collection 1028–0070 in your comments.

FOR FURTHER INFORMATION CONTACT: Michele R. Simmons at (703) 648–7940. Copies of the full Information Collection Request and the forms can be obtained at no cost at *www.reginfo.gov* or by contacting the USGS clearance officer at the phone number listed below.

SUPPLEMENTARY INFORMATION:

Title: Consolidated Consumers' Report.

OMB Control Number: 1028–0070.

Form Number: 9–4117–MA.

Abstract: Respondents to this form supply the U.S. Geological Survey with domestic consumption data of 12 metals and ferroalloys, some of which are considered strategic and critical. This information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

We will protect information considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2). Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release data collection on Form 9–4117–MA only in a summary format that is not company-specific.

Frequency: Monthly and annually.

Estimated Number and Description of Respondents: Approximately 397 consumers of ferrous and related metals. Respondents are canvassed for one frequency period (e.g. monthly respondents are not canvassed annually).

Estimated Number of Responses: 2,278.

Annual burden hours: 1,709.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved ''hour'' burden for Form 9–4117–MA is 1,709 hours. We estimate the public reporting burden averages 45 minutes per response. This includes the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on June 4, 2007, we published a **Federal Register** notice (72 FR 30821–30822) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day public comment period. We have received no comments in response to the notice.

USGS Information Collection Clearance Officer: Alfred Travnicek, 703–648–7231.

Dated: September 7, 2007.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 07–5746 Filed 11–19–07; 8:45 am]

BILLING CODE 4311–AM–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–08–1310–DB]

Notice of Meetings of the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) will meet in Pinedale, Wyoming, for business meetings. Group meetings are open to the public.

DATES: The PAWG will meet the following dates beginning at 1 p.m.

January 24, 2008
March 27, 2008
May 22, 2008

ADDRESSES: The meeting of the PAWG will be held at the BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Caleb Hiner, BLM/PAWG Liaison, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, WY 82941; 307–367–5352.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds for the life of the field.

The agendas for these meetings will include discussions concerning any modifications task groups may wish to make to their monitoring recommendations and overall adaptive management implementation as it applies to the PAWG. At a minimum, public comments will be heard prior to adjournment of each meeting.

November 14, 2007.

Chuck Otto,

Field Office Manager.

[FR Doc. E7–22650 Filed 11–19–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the American Museum of Natural History, New York, NY, that meets the definitions of ''sacred object'' and ''object of cultural patrimony'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The cultural item is a fan–shaped headdress with an attached mask. The headdress is approximately 91 centimeters in length, 87 centimeters wide, and 4 centimeters in depth. The mask is a cloth, Loveland flour sack with its brand marking still visible. It is perforated with three holes near the eyes and mouth. The headdress is arranged in two ranks of wooden slats connected by cross pieces in the center and on either end, making the shape of a fan. The top rank contains thirty–two slats and both sides are painted with six diamonds of red and yellow. The bottom rank contains fourteen slats and both sides are painted with three triangles that are also red and yellow.

This cultural item was acquired by Mrs. Amelia E. White, though the circumstances of her acquisition are unknown. In 1937, the museum acquired the headdress from Mrs. White as a gift. The museum accessioned the item in 1937. The cultural affiliation of the cultural item is San Carlos Apache, as indicated by museum records and by consultation evidence presented by the Western Apache Working Group, which consists of the authorized NAGPRA representatives from the San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai–Apache Nation of the Camp Verde Indian Reservation, Arizona.

Officials of the American Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Officials of the American Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present–day adherents. Lastly, officials of the American Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the San Carlos Apache Tribe of the San Carlos Reservation, Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object/object of cultural patrimony should contact Nell Murphy, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, before December 20, 2007. Repatriation of the sacred object/object of cultural patrimony to the San Carlos Apache Tribe of the San Carlos Reservation, Arizona may proceed after that date if no additional claimants come forward.

The American Museum of Natural History is responsible for notifying the San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai–Apache Nation of the Camp Verde Indian Reservation, Arizona that this notice has been published.

Dated: October 18, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–22674 Filed 11–19–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of Agriculture, Forest Service, Coronado National Forest, Tucson, AZ and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the U.S. Department of Agriculture, Forest Service, Coronado National Forest, Tucson, AZ that meet the definition of ‘‘objects of cultural patrimony’’ under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 58 cultural items are part of an archeological collection known as the Pinaleno Cotton Cache. The 58 cultural items are 2 caches of raw, native cotton; 3 ceramic jars; 3 ceramic bowls; 2 coiled basketry bowls; 1 coiled basketry pot stand; and 47 botanical and faunal items.

In 1982, the Pinaleno Cotton Cache was found near Safford, AZ, by local residents on lands administered by the Forest Service. In 1983, the existence of the cache was reported to the Forest Service. Officials of the U.S. Department of Agriculture, Forest Service removed cultural items in the cache for curation at the Arizona State Museum, University of Arizona, Tucson, AZ. Subsequently, U.S. Department of Agriculture, Forest Service law enforcement officers recovered the two coiled baskets from individuals who had removed the items illegally during the interval between the discovery of the cache and its removal by the Forest Service.

The ceramic vessels in the cache have characteristics associated with both the Hohokam and Mogollon cultures in the 10th through the 12th century. The coiled basketry pieces were constructed with a method (two–rod–and–bundle) shared by many people throughout the prehistoric Southwestern United States. In addition, basket fragments with a similar construction technique were found at Ventana Cave on the Tohono O'odham reservation. Studies of the cultural items in the Pinaleno Cotton Cache have established that the site was a shrine that was visited at intervals from the 7th through the 13th century, and that the items left at the site were ceremonial offerings. In a 1995 study, the U.S. Department of Agriculture, Forest Service determined that Hohokam cultural materials of the 7th through the 13th century from the Safford area in Arizona are culturally affiliated with the Tohono O'odham Nation of Arizona. During consultation, cultural and religious leaders of the Tohono O'odham Nation of Arizona indicated that the cultural items in the Pinaleno Cotton Cache were of Tohono O'odham ancestry. The tribal representatives also indicated that the cultural items were objects of cultural patrimony associated with the ancestral Tohono O'odham culture and had ongoing historical, traditional or cultural importance and was property owned by the tribe.

Officials of the U.S. Department of Agriculture, Forest Service have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the 58 cultural items described above have ongoing historical, traditional or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Officials of the U.S. Department of Agriculture, Forest Service also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the objects of cultural patrimony and the Tohono O'odham Nation of Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the objects of cultural patrimony should contact Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 333 Broadway Blvd., SE, Albuquerque, NM 87102, telephone (505) 842–3238, before December 20, 2007. Repatriation of the objects of cultural patrimony to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The Coronado National Forest is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona that this notice has been published.

Dated: October 25, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–22671 Filed 11–19–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Horner Collection, Oregon State University, Corvallis, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Horner Collection, Oregon State University, Corvallis, OR that meet the definition of ‘‘unassociated funerary objects’’ under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The five cultural items are one antler tool; one nose ring or bracelet; one mortar and pestle; one jar of beads; and one bag of bells.

The Museum of Oregon Country, Oregon Agricultural College was renamed the John B. Horner Museum of the Oregon Country in 1936, and became commonly known as the Horner Museum. The Oregon Agricultural College was renamed Oregon State College in 1937, and became Oregon State University in 1962. The Horner Museum closed in 1995. Currently, cultural items from the Horner Museum are referred to as the Horner Collection, which is owned by, and in the possession of, Oregon State University.

Horner Collection, Oregon State University professional staff consulted with representatives of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Reservation, Oregon; Coquille Tribe of Oregon; and Santa Rosa Indian Community of the Santa Rosa Rancheria, California.

On March 17, 1929, V.P. Mitchell removed a ''horn implement'' from an unknown site near Yachats, OR. On December 21, 1933, V.P. Mitchell donated the antler horn implement to the museum and listed as part of the J. G. Crawford collection. Although the Horner Collection, Oregon State University has no documentation that the antler tool was ever buried with any individual, Mr. Crawford is known to have collected human remains and cultural items from burials and mounds.

On December 21, 1933, V.P. Mitchell donated a nose ring or bracelet to the museum. Provenience records show that the item was in V.P. Mitchell's possession in 1929 and is listed as a ''Yachats Indian nose ring.'' On June 27, 2006, a representative of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California identified the item as a bracelet of a young lady or grandmother. On February 11, 2004, a representative of the Confederated Tribes of Siletz Indians, Oregon identified the cultural item as a funerary object from Yachats, OR.

At an unknown date, cultural items were removed by Mrs. P. Mitchell from an unknown area near Yachats, OR. On April 13, 1968, Mrs. Mitchell donated one mortar and pestle, one jar of Indian beads, and one bag of bells, along with a human skull, to the museum. A deed of gift was submitted, which states ''Collection of Indian artifacts found near Yachats, OR.'' The Horner Collection, Oregon State University has no specific documentation that the cultural items were ever buried with any individual. However, with the inclusion of a human skull donated with the cultural items, the museum has identified them as unassociated funerary objects. The human remains are described in a previously published Notice of Inventory Completion in the **Federal Register** of October 26, 2005 (FR Doc 05–21332, pages 61839–61840).

All of the above cultural items were removed from undisclosed locations near Yachats, OR. According to a tribal representative for the Confederated Tribes of the Siletz Reservation, Oregon, the Yachats area had large middens lining the lower Yachats River and nearby coastline. Large middens show the extensive time period of occupation of the Yachats area. The Yachats area was made part of the Siletz/Coast Reservation when it was established in 1855. This area was inhabited by the Alsea, Coos, Lower Umpqua, some South Slough and lower Coquille people, and some members of other tribes also confederated upon the Siletz Reservation. The Alsea people, as well as others that lived at Yachats, moved to the Siletz reservation in 1876. Descendants of tribes from the Yachats area are members of the Confederated Tribes of the Siletz Reservation, Oregon.

Based on geographic, historic documents, museum and donor history, and consultation evidence, the Horner Collection, Oregon State University reasonably believe the cultural items to be unassociated funerary objects and culturally affiliated with the Confederated Tribes of the Siletz Reservation, Oregon.

Officials of the Horner Collection, Oregon State University have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the five cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Horner Collection, Oregon State University also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Tribes of the Siletz Reservation, Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Sabah Randhawa, Executive Vice President and Provost, President's Office, Oregon State University, 600 Kerr Administration Building, Corvallis, OR 97331, telephone (541) 737–8260, before December 20, 2007. Repatriation of the unassociated funerary objects to the Confederated Tribes of the Siletz Reservation, Oregon may proceed after that date if no additional claimants come forward.

The Horner Collection, Oregon State University is responsible for notifying the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Reservation, Oregon; Coquille Tribe of Oregon; and Santa Rosa Indian Community of the Santa Rosa Rancheria, California that this notice has been published.

Dated: October 18, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–22669 Filed 11–19–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF LABOR

Employment and Training Administration

Clarification of Certain Procedures for Processing H–2A Labor Certification Applications

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) is providing additional clarification to the procedures by which State Workforce Agencies and ETA National Processing Centers (NPC) process employer applications for H–2A temporary agricultural labor certification issued in the Training and Employment Guidance Letter (TEGL) No. 11–07 on November 6, 2007. These additional clarifications have been made under TEGL No. 11–07, Change 1, which is published below in order to inform the public. The clarifications and requirements stated in the TEGL take effect immediately.

SUPPLEMENTARY INFORMATION:

Training and Employment Guidance Letter No. 11–07, Change 1—Clarification of Certain Procedures for Processing H–2A Labor Certification Applications

1. *Purpose.* To modify TEGL No. 11–07 to further clarify certain procedures for State Workforce Agencies (SWAs) and Employment and Training Administration (ETA) National Processing Centers (NPCs) involved in the processing of H–2A labor certification applications for temporary agricultural employment of foreign workers in the United States (U.S.).

2. *References.* Immigration and Nationality Act (INA) Section 101(a)(15)(H)(ii)(a); INA Section 218; 20 Code of Federal Regulations (CFR) 651.10; 20 CFR Part 653 Subparts B and F; 20 CFR Part 654, Subpart E; 20 CFR Part 655, Subpart B; 20 CFR Part 658, Subpart F; Field Memorandum No. 16–00; Training and Employment Guidance Letter No. 31–01; General Administration Letter No. 1–02; Training and Employment Guidance Letter No. 11–07 (November 6, 2007).

3. *Background.* The H–2A nonimmigrant visa program permits employers to hire foreign workers to perform agricultural labor or services of a temporary or seasonal nature. The H–2A visa classification requires the intending employer, prior to filing a petition for one or more H–2A workers with the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), to apply to the Secretary of Labor for a certification that: (1) There are not sufficient workers who are able, willing, qualified, and available at the time and place where the H–2A worker is to perform the work; and (2) employment of the H–2A worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

The NPC having jurisdiction over the state(s) in which the area of intended employment is located is responsible for processing a request for H–2A labor certification. NPC responsibilities include reviewing the application for acceptance, directing the SWA to clear the job order through the intrastate and interstate clearance system, ensuring the employer meets positive recruitment requirements, and making a final determination with respect to granting or denying certification for all or some of the job opportunities requested.

The SWA serving the area of intended employment, with which the employer files a concurrent request for H–2A labor certification, is responsible for placing a job order, using information submitted by the employer on its job offer for intrastate and interstate clearance, and, where necessary, performing inspections to ensure that housing meets the applicable standards.

4. *Clarification of Procedures for H–2A Applications.* This Training and Employment Guidance Letter (TEGL) clarifies certain procedures the SWAs and NPCs must use in processing temporary labor certification applications under the H–2A program. These clarifications replace and supersede prior corresponding operating procedures issued for the H–2A program, as noted. However, these clarifications do not affect the special procedures established by ETA for sheepherders and goatherders, for occupations involved in the open range production of livestock, for multi-state custom combine owners and operators, and for itinerant animal shearing.

A. Filing

i. *SWA Locations.* The specific location of each SWA may be obtained directly from the Office of Foreign Labor Certification's Web site at *http://www.foreignlaborcert.doleta.gov/contacts.cfm.* Each SWA must notify the appropriate NPC of any changes to its location or mailing address.

ii. *Worksite(s) Crossing State Jurisdictional Boundaries.* In circumstances where a fixed-site employer has one or more worksites located in the same area of intended employment and that lie in one or more state jurisdictions, the employer should file a single H–2A labor certification application concurrently with the SWA in the state where the work will begin and the NPC that covers this state. This provision does not apply to Farm Labor Contractors (FLCs) filing as employers. SWAs are reminded that, in circumstances where work will be performed in multiple states, unless special procedures apply, the job order for recruiting U.S. workers must be transmitted to all other state jurisdictions in which any work will take place in order that they post the opportunity in their respective job clearance system.

iii. *Timing.* The Secretary of Labor is required to make a labor certification determination at least 30 calendar days before the employer's date of need, unless the initial or modified application was not filed timely. INA Section 218(c)(3)(A). As such, the SWA must conduct a housing inspection, the employer must provide a recruitment report to the NPC, and the employer must provide evidence of workers' compensation insurance coverage to the NPC, all before the date that is 30 calendar days before the date of need.

B. Recruitment

i. *Contact Information.* In accordance with the regulatory requirements at 20 CFR 655.103(d)(2)(ii), each advertisement the employer places in a newspaper of general circulation serving the area of intended employment must direct interested applicants to apply or send resumes to the nearest office of the SWA for referral to the employer's place of work. This regulatory requirement also applies to job orders placed by the SWA in intrastate and interstate clearance to ensure that all U.S. workers referred through such job orders are apprised of the terms and conditions of employment.

Absent a SWA referral, however, an employer must still respond to employment inquiries from individuals who appear at the employer's place of business or otherwise contact the employer directly. While the employer is not required to be consistently available to answer every inquiry placed by an interested individual, the employer should have a mechanism in place to take messages (e.g., an answering machine) and should respond to such messages within 24 hours. The employer may not reject for other than a lawful, job-related reason any U.S. worker's application.

An employer is required to engage in positive recruitment of U.S. workers in the area of intended employment until the foreign worker(s) have departed for the employer's place of work (20 CFR 655.103(d)). The Department may also require employers to recruit in other states of ''traditional or expected labor supply.'' 20 CFR 655.105(a). The imposition of such out-of-state recruiting requirements shall be based on current information provided by a state agency or other sources ''that there are a significant number of able and qualified U.S. workers'' in each state designated for recruitment ''who, if recruited, would likely be willing to make themselves available for work at the time and place needed.'' *Id.* As required by regulation, the Department will not require employers to ''recruit in areas where there are a significant number of local employers recruiting for U.S. workers for the same types of occupations.'' *Id.*

ii. *Verification of Employment Eligibility.* The Department's statutory duties under the H–2A program require it to ascertain the employment eligibility of all referred workers. INA Section 218(c)(3)(A) mandates that the Department issue a labor certification ''not later than 30 days before the date such labor or services are first required to be performed * * * if (1) the employer has complied with the criteria for certification (including criteria for the recruitment of *eligible* individuals as prescribed by the Secretary), and (2) the employer does not actually have, or has not been provided referrals of, qualified *eligible* individuals who have indicated their ability to perform such labor or services. * * *'' The Department has fulfilled its statutory mandate by instructing SWAs via regulation and through this guidance letter that workers cannot be referred to employers unless the SWA has determined that the worker is ''able, willing, and eligible'' to take the job. 20 CFR 655.106(a). Eligibility is clearly defined by statute to mean ''with respect to employment, *an individual who is not an unauthorized alien * * * with respect to that employment*.'' INA Section 218(i)(1).

The Department has also required by regulation that all local SWA offices must ''determine whether or not applicants are MSFWs [migrant and seasonal farmworkers] as defined at 20 CFR § 651.10 of this chapter.'' ''Farmworker'' is defined by 20 CFR § 651.10 as as ''agricultural worker,'' which is in turn defined as ''a worker, whose primary work experience has been in farmwork * * * whether alien or citizen, *who is legally authorized to work in the United States*.''

Accordingly, SWAs must verify the employment eligibility of any worker referred to an employer in response to an H–2A job order. The Department strongly recommends that SWAs use the E-Verify Web-based system administered by U.S. Citizenship and Immigration Services (USCIS). Information on the E-Verify system may be obtained directly from USCIS by clicking on the ''E-Verify'' link at *http://www.uscis.gov*. The Department is aware that many, and perhaps most, SWAs do not currently have reliable employment verification systems in place. Therefore, the Department will not enforce the employment verification requirements specified in this Training and Employment Guidance Letter against the SWAs until December 15, 2007.

SWAs should be aware that employers can rely on INA Section 274A(a)(5) only where the documentation complies with all statutory and regulatory requirements, including 8 CFR 274a.6. SWAs are strongly encouraged to provide this documentation. The Department will offer training between now and December 15 to provide SWAs additional guidance on how to comply with the applicable requirements.

iii. *SWA Referrals during Contract Period.* Once an employer's H–2A workers have departed for the employer's place of work, SWAs should, in order to minimize disruption during the H–2A contract period, first make all reasonable efforts to refer an interested U.S. worker to a non-H–2A job order in the area of intended employment or to an unfilled H–2A job order in the area of intended employment in which the H–2A workers have not yet departed for the place of employment.

C. Housing

Housing Standards. SWAs are reminded that employers must provide housing at no cost to any worker not reasonably able to return to his/her residence within the same day. Employer-provided housing, depending on when it was built, must meet either the USDOL Occupational Safety and Health Administration (OSHA) standards set forth under 29 CFR 1910.142 (standards for temporary labor camps), or the ETA standards at 20 CFR 654.404–654.417 (standards for H–2A housing), whichever are applicable pursuant to the regulations. In circumstances where rental, public accommodation, or another substantially similar class of habitation is used, the housing must first meet any local standards for such housing or, in the absence of applicable local standards, any applicable state standards. In the absence of both local and state standards, the housing must meet the OSHA standards for temporary labor camps. In accordance with the Federal regulations at 20 CFR 655.102(b)(1)(vi), when it is the prevailing practice in the area of intended employment and for the occupation to provide family housing, the employer must provide family housing to all workers who request it. Open range housing—for sheepherders or others engaged primarily in the range production of livestock—must comply with OSHA housing standards or, alternatively, DOL guidance. In the absence of OSHA standards, ETA has added housing-related guidance to its TEGL 15–06 (February 9, 2007), which governs the processing of H–2A labor certification applications for occupations involved in the open range production of livestock.

i. *Housing Inspections.* SWAs are encouraged to perform housing inspections in a timely manner so that processing of an employer's application is not unduly delayed. SWAs should be prepared to conduct housing inspections prior to the date an employer will file an H–2A labor certification application, if so requested by the employer.

ii. *Certified Housing that Becomes Unavailable.* For situations in which housing certified by the SWA later becomes unavailable for reasons outside the employer's control, the employer may substitute other rental or public accommodation housing that possesses a valid certificate of occupancy. The employer must notify the SWA, in writing, of the change in accommodations and the reason(s) for such change. The SWA may inspect such accommodations, prior to or during occupation, to ensure it meets applicable housing standards.

5. *Effective Date.* This guidance applies to all H–2A labor certification applications pending with or received by the NPC and SWA on or after the date this TEGL is issued.

6. *Action Required.* NPC Directors and SWA Administrators are directed to provide NPC, SWA and other state staff involved in the processing of H–2A applications with a copy of these procedures.

7. *Inquiries.* Questions from SWA staff should be directed to the Office of Foreign Labor Certification at (202) 693–3010.

Signed in Washington, DC, this 15th day of November, 2007.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E7–22636 Filed 11–19–07; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Federal Economic Statistics Advisory Committee; Notice of Open Meeting and Agenda

The thirteenth meeting of the Federal Economic Statistics Advisory Committee will be held on December 14, 2007 in the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Federal Economic Statistics Advisory Committee is a technical committee composed of economists, statisticians, and behavioral scientists who are recognized for their attainments and objectivity in their respective fields. Committee members are called upon to analyze issues involved in producing Federal economic statistics and recommend practices that will lead to optimum efficiency, effectiveness, and cooperation among the Department of Labor, Bureau of Labor Statistics and the Department of Commerce, Bureau of Economic Analysis and Bureau of the Census.

The meeting will be held in Meeting Rooms 1 and 2 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

9 a.m.—Opening session
9:15 a.m.—Agency updates and discussion of statistical priorities
11 p.m.—Measures of Intangible Capital: Labor Composition
1 p.m.—Health Care Statistics
2:45 p.m.—Nonresponse bias
4:45 p.m.—Conclude (approximate time)

The meeting is open to the public. Any questions concerning the meeting should be directed to Margaret Johnson, Federal Economic Statistics Advisory Committee, on Area Code (202) 691–5600. Individuals with disabilities, who need special accommodations, should contact Ms. Johnson at least two days prior to the meeting date.

Signed at Washington, DC. the 9th day of November 2007.

Philip L. Rones,

Deputy Commissioner, Bureau of Labor Statistics.

[FR Doc. E7–22585 Filed 11–19–07; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before December 20, 2007 to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on August 30, 2007 (72 FR 50128 and 50129). One comment was received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Order Forms for Genealogical Research in the National Archives.

OMB number: 3095–0027.

Agency form numbers: NATF Forms 81, 82, 83, 84, 85, and 86.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 42,515.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 7,086.

Abstract: Submission of requests on a form is necessary to handle in a timely fashion the volume of requests received for these records (2,479 per year for the NATF 81; 280 per year for the NATF 82; 526 per year for the NATF 83; 3,669 per year for the NATF 84; 17,716 per year for the NATF 85; and 17,845 per year for the NATF 86) and the need to obtain specific information from the researcher to search for the records sought. As a convenience, the form will allow researchers to provide credit card information to authorize billing and expedited mailing of the copies. You can also order online at *https://eservices.archives.gov/orderonline.* These forms will also be posted as .pdf files within NARA's online ordering system.

Dated: November 14, 2007.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E7–22714 Filed 11–19–07; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 6–8, 2007, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 15, 2006 (71 FR 66561).

Thursday, December 6, 2007, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Draft Final NUREG–1829, "Estimating Loss-of-Coolant Accident (LOCA) Frequencies Through the Elicitation Process," and Draft NUREG–XXXX, "Seismic Considerations for the Transition Break Size" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft NUREG reports on estimating LOCA frequencies through the expert elicitation process and on seismic considerations for the transition break size.

10:45 a.m.–12:15 p.m.: AREVA Enhanced Option III Long Term Stability Solution (Topical Report ANP–10262) (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and AREVA regarding AREVA Topical Report ANP–10262 on Enhanced Option III Long Term Stability Solution.

Note: A portion of this session may be closed to discuss and protect information that is proprietary to AREVA and their contractors pursuant to 5 U.S.C. 552b(c)(4).

1:15 p.m.–3:15 p.m.: State-of-the-Art Reactor Consequence Analysis (SOARCA) (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding State-of-the-Art Reactor Consequence Analysis.

Note: A portion of this session may be closed to discus and protect information classified as National Security information as well as Safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

3:30 p.m.–5:30 p.m.: Draft ACRS report on the NRC Safety Research Program (Open)—The Committee will discuss the draft ACRS report on the NRC Safety Research Program.

5:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, December 7, 2007, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–11:15 a.m.: Extended Power Uprate Application for the Susquehanna Nuclear Power Plant (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Pennsylvania Power & Light Company regarding the Extended Power Uprate Application for the Susquehanna Nuclear Power Plant and the associated NRC staff's Safety Evaluation.

Note: A portion of this session may be closed to discuss and protect information that is proprietary to General Electric and their contractors pursuant to 5 U.S.C. 552b(c)(4).

11:30 a.m.–12 p.m.: Subcommittee Report (Open)—The Committee will hear a report by and hold discussions with the Chairman of the ACRS Subcommittee on ESBWR regarding items discussed during the meeting on November 15, 2007.

1:30 p.m.–2:30 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

2:30 p.m.–2:45 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

2:45 p.m.–3:15 p.m.: Election of ACRS Officers for CY 2008 (Open)—The Committee will elect the Chairman and Vice-Chairman for the ACRS and Member-at-Large for the Planning and Procedures Subcommittee for CY 2008.

3:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, December 8, 2007, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–1 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports, as well as the draft ACRS report on the NRC Safety Research Program.

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54695). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close portions of this meeting noted above to discuss and protect information classified as proprietary to General Electric, AREVA, and their contractors pursuant to 5 U.S.C 552b (c) (4), and National Security information as well as Safeguards information pursuant to 5 U.S.C. 552b (c) (1) and (3).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Girija S. Shukla, Cognizant ACRS staff (301–415–6855), between 7:30 a.m. and 4 p.m., (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ (ACRS & ACNW Mtg schedules/agendas).*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m.– and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

The ACRS meeting previously scheduled for April 3–5, 2008, and published in the **Federal Register** on October 22, 2007 (72 FR 59573), is rescheduled for April 10–12, 2008.

Dated: November 14, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–22641 Filed 11–19–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of November 19, 26; December 3, 10, 17, 24, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 19, 2007

Tuesday, November 20, 2007

9:05 a.m.

Affirmation Session (Public Meeting) (Tentative).

a. Pacific Gas and Electric Co. (Diablo Canyon ISFSI), Docket No. 72–26–ISFSI, San Luis Obispo Mothers for Peace's Contentions and Request for a Hearing Regarding Diablo Canyon Environmental Assessment Supplement (Tentative).

b. Dominion Nuclear North Anna, LLC (Early Site Permit for North Anna ESP Site), LBP–07–9 (June 9, 2007) (Tentative).

Week of November 26, 2007—Tentative

Tuesday, November 27, 2007.

9:30 a.m.

Discussion of Security Issues (Closed—Ex. 1 & 3).

1:30 p.m.

Briefing on Equal Employment Opportunity (EEO) Programs (Public Meeting) (Contact: Sandra Talley, 301 415–8059).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Week of December 3, 2007—Tentative

Friday, December 7, 2007

10 a.m.

Discussion of Intragovernmental Issues (Closed—Ex. 1 & 9).

2 p.m.

Briefing on Threat Environment Assessment (Closed—Ex. 1).

Week of December 10, 2007—Tentative

Wednesday, December 12, 2007

9:30 a.m.

Discussion of Management Issues (Closed—Ex. 2).

Week of December 17, 2007—Tentative

There are no meetings scheduled for the Week of December 17, 2007.

Week of December 24, 2007—Tentative

There are no meetings scheduled for the Week of December 24, 2007.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

Additional Information

''Discussion of Management Issues (Closed—Ex. 2)'' previously scheduled on Thursday, December 13, 2007, at 9:30 a.m. has been postponed.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *REB3@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: November 15, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–5772 Filed 11–16–07; 11:31 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 25, 2007, to November 7, 2007. The last biweekly notice was published on November 6, 2007 (72 FR 62685).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order, which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion, which supports the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system.

The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, the Atomic Safety and Licensing Board, or a presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland.

Date of amendments request: October 17, 2007.

Description of amendments request: The proposed amendment would modify the Technical Specifications (TS) to establish more effective and appropriate action, surveillance, and administrative requirements related to the inoperability of snubbers in accordance with Nuclear Regulatory Commission (NRC)-approved TS Task Force (TSTF) change traveler TSTF–372–A, Revision 4. Specifically, the proposed amendment would add Limiting Condition for Operation (LCO) 3.0.8. The NRC staff issued a ''Notice of Opportunity To Comment on Model Safety Evaluation on Technical Specification Improvement To Modify Requirements Regarding the Addition of LCO 3.0.8 on the Inoperability of Snubbers Using the Consolidated Line Item Improvement Process'' in the **Federal Register** on November 24, 2004 (69 FR 68412). The notice included a model safety evaluation (SE) and a model no-significant-hazards-consideration (NSHC) determination. The NRC staff issued a ''Notice of Availability of Model Application Concerning Technical Specification Improvement To Modify Requirements Regarding the Addition of Limiting Condition for Operation 3.0.8 on the Inoperability of Snubbers Using the Consolidated Line Item Improvement Process'' in the **Federal Register** on May 4, 2005 (70 FR 23252). The notice included a model application, including a revised model SE. In its application dated October 17, 2007, the licensee affirmed the applicability of the model NSHC determination which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed).

Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's assessment and management of plant risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves NSHC.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

NRC Branch Chief: Mark G. Kowal.

Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of amendment request: September 14, 2007.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) requirements related to control room envelope habitability. The proposed changes include revisions to the control room post-accident recirculation system, the instrument operating conditions for isolation functions, and a control room envelope habitability program. The changes are consistent with TS Task Force (TSTF) Change Traveler TSTF–448–A, Revision 3, ''Control Room Habitability,'' except for the differential pressure surveillance requirements. The availability of this TS improvement was published in the **Federal Register** on January 17, 2007 (72 FR 2022).

In addition to the changes related to TSTF–448–A, the proposed amendment would: (1) Align TS with those delineated in NUREG–1431, Revision 3, ''Standard Technical Specifications, Westinghouse Plants,'' to the extent necessary to adopt TSTF–448–A, including the adoption of the necessary portions of TSTF–51–A, Revision 2, ''Revise Containment Requirements During Handling of Irradiated Fuel and Core Alterations,'' and TSTF–287–A, Revision 5, ''Ventilation System Envelope Allowed Outage Time,'' (2) add TS for control room radiation monitor R–23 (ventilation system air monitor), and (3) reformat or clarify current TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed changes do not prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. This is a revision to the TS for the control room post-accident recirculation system and control room isolation function, which are mitigation systems designed to minimize unfiltered air in-leakage into the control room envelope and to filter the control room envelope atmosphere to protect the control room envelope occupants following accidents previously analyzed. An important part of the system is the control room envelope boundary. The control room envelope post-accident recirculation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not significantly increased.

Establishing operability requirements for SSCs, performing tests and implementing programs that verify the integrity of the control room envelope boundary and control room envelope habitability ensure that the mitigation features are capable of performing their assumed functions. Therefore, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The proposed changes will not significantly change the requirements of the control room envelope ventilation system or its function during accident conditions. No new or different accidents result from performing the new surveillance or following the new program. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed changes are consistent with the safety analysis assumptions including the revised gas decay tank and volume control tank rupture analysis and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis for an unacceptable period without compensatory measures. The proposed changes do not significantly affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, Riverside 2, Richmond, VA 23219.

NRC Acting Branch Chief: Travis L. Tate.

Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of amendment request: October 2, 2007.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Sections 3.7, ''Auxiliary Electrical Systems'' and 4.6, ''Periodic Testing of Emergency Power System,'' to change the testing requirements for ensuring operability of the remaining operable emergency diesel generator (EDG) when the other EDG is inoperable. In addition, the proposed amendment would add a new specification when two EDGs are inoperable and revise the surveillance requirements for the EDGs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed amendment would clarify testing requirements for the operable EDG, when one EDG is inoperable, and limit testing to only the intended purpose of the requirement. The intended purpose of the testing requirement is to provide reasonable assurance that when an EDG is inoperable, the opposite EDG is operable. The proposed change does not affect the initiators of analyzed events or the assumed mitigation of accident or transient events. Specifically, testing of the remaining operable diesel will still occur unless evaluation of the inoperable EDG confirms that its failure is not attributable to a common cause failure mechanism. Furthermore, the proposed change clarifies the surveillance testing necessary to give reasonable assurance of operability and restricts the amount of time to perform the testing (i.e. with two inoperable EDGs) to two hours. This ensures no significant increase in the probability of a loss-of-power during the period of the confirming surveillance concurrent with an opposite train inoperable EDG. Elimination of unnecessary testing by acceptable evaluation of the operable EDG reduces component wear and promotes overall EDG reliability and availability. Clarification of required testing and restriction in the amount of time to complete the surveillance to confirm operability, reduces the probability and significance of common mode failures.

The proposed amendment would also add a new specification allowing two EDGs to be inoperable for up to two hours. This change does not significantly increase the initiators of analyzed events or the assumed mitigation of any accidents or transients. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not involve a physical alteration of the plant or a change in the methods used to respond to any evaluated plant accident. No new or different equipment is being installed and no installed equipment is being removed or operated in a different manner. Only a surveillance test clarification and limited two-hour action statement have been added to permit testing of the opposite train, operable EDG. Although the diesel generators will be tested in a different manner, the proposed changes will improve the availability and reliability of the diesel generators without creating the possibility of a new or different kind of accident from any accident previously evaluated. Furthermore, there is no alteration to the parameters within which the plant is normally operated or in the setpoints, which initiate protective or mitigative actions. Since the diesel generators will continue to be operated in the same manner and the proposed test protocol will improve diesel generator availability and reliability, no new failure modes are introduced by the proposed amendment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment would add a TS allowing two EDGs to be inoperable for up to two hours before the plant must be shut down in a controlled manner. Allowing two EDGs to be inoperable for this limited period of time, while the normal offsite power source remains available, is consistent with Regulatory Guide 1.93 and not considered to be a significant reduction in a margin of safety.

Station operations and EDG surveillance requirements are not adversely affected by the proposed change. Furthermore, the proposed amendment does not adversely impact the condition or performance of structures, systems or components relied upon for accident mitigation or any safety analysis assumptions. The proposed amendment adds provisions to reduce EDG wear and increase availability.

Therefore, the proposed amendment to the KPS [Kewaunee Power Station] TS does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., Counsel for Dominion Energy Kewaunee, Inc., 120 Tredegar Street, Richmond, VA 23219.

NRC Acting Branch Chief: Travis L. Tate.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: October 16, 2007.

Description of amendment request: The proposed amendments would revise the Technical Specifications to accommodate plant modifications that will address water hammer concerns described in Generic Letter 96–06, ''Assurance of Equipment Operability and Containment Integrity During Design-Basis Conditions,'' dated September 30, 1996.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested license amendment seeks approval for the Low Pressure Service Water Reactor Building Waterhammer Prevention System that is being added to the design of the three Oconee Units and the associated revised Technical Specifications. The Low Pressure Service Water Reactor Building Waterhammer Prevention modification will provide a combination passive and automatic means to isolate the Low Pressure Service Water flow stream to the Reactor Building Cooling Units, Reactor Building Auxiliary Coolers, and Reactor Coolant Pump Motor Coolers on a loss of Low Pressure Service Water flow that can lead to a waterhammer should the Low Pressure Service Water system become depressurized.

New check valves and air operated valves are added into an Engineered Safeguards flowpath. The existing Low Pressure Service Water header that discharges from the Reactor Building Cooling Units is to be modified by separating it into two headers and then joining back into a common header. Each header will contain two air operated valves. The Waterhammer Prevention System maintains the Low Pressure Service Water System inside containment water solid during a Loss of Offsite Power such that voids, which could later collapse, cannot form. The Waterhammer Prevention System will eliminate an Operable but degraded/non-conforming condition associated with waterhammers.

The design of the proposed modification and its associated Technical Specifications will provide means to assure that the Low Pressure Service Water Reactor Building Waterhammer Prevention System operates at a performance level necessary to provide for safe operation of the Low Pressure Service Water system following installation on each of the three Units. The system is designed such that a single active failure will not prevent the system from preventing a waterhammer event if power is lost to the Low Pressure Service Water pumps (e.g., Loss of Offsite Power), nor will a single active failure prevent the Engineered Safeguards flowpath from being available if needed during a Loss of Coolant Accident or Main Steam Line Break. Evaluations have been performed to assure that the risk of adding new hardware is acceptable.

Therefore, the addition of this modification and associated Technical Specifications does not significantly increase the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Low Pressure Service Water Reactor Building Waterhammer Prevention Modification and its associated Technical Specifications will provide a means to assure the mechanical and electrical components operate at a performance level necessary to provide for safe operation of the modified Low Pressure Service Water system flow to the Reactor Building Cooling Units, Reactor Building Auxiliary Coolers and Reactor Coolant Pump Motor Coolers.

The change enhances the plant design by eliminating the possibility of significant waterhammers that occur on a loss of Low Pressure Service Water flow to the above components.

The modification does not add any new single active failures that would prevent the Low Pressure Service Water System from supplying cooling water to the Reactor Building Cooling Units. The Reactor Building Cooling Units will be isolated briefly during an Engineered Safeguards event; however, the flow path will be restored before cooling is required following the event. Since cooling was previously not available until after power restoration following a Loss of Offsite Power, there is no change in system response regarding Low Pressure Service Water flow through the Reactor Building Cooling Units when compared to the previous design.

Therefore, the proposed modification and associated Technical Specifications will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change does not adversely affect any plant safety limits, setpoints, or design parameters. The change also does not adversely affect the fuel, fuel cladding, Reactor Coolant System, or Containment Operability. The Reactor Building Cooling Units will be isolated briefly during an Engineered Safeguards event; however, the flow path will be restored before cooling is required following the event.

Since cooling is currently not available until after power restoration following a Loss of Offsite Power, there is no change in system response regarding Low Pressure Service Water flow through the Reactor Building Cooling Units when compared to the previous design.

The modification mitigates significant waterhammers in the Low Pressure Service Water piping to the Reactor Building Cooling Units and Reactor Cooling Pump Motor Coolers. The change will maintain the ability to provide Low Pressure Service Water flow to safety related loads following Loss of Offsite Power events.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

Duke Power Company LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina.

Date of amendment request: October 22, 2007.

Description of amendment request: The proposed amendments would revise the Technical Specifications to accommodate the use of AREVA NP Mark–B–HTP fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to the technical specifications and to Duke's NRC-approved methodology reports support the use of the AREVA NP Mark–B–HTP fuel design. The methodology will be approved by the NRC prior to plant operation with the new fuel. The proposed safety limit ensures that fuel integrity will be maintained during normal operations and anticipated operational transients. The core operating limits report will be developed in accordance with the approved methodology. The proposed safety limit value does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. There is no impact on the source term or pathways assumed in accidents previously assumed. No analysis assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed safety limit value does not change the methods governing normal plant operation, nor are the methods utilized to respond to plant transients altered. The BHTP correlation is not an accident/event initiator. No new initiating events or transients result from the use of the BHTP correlation or the related safety limit change.

3. Involve a significant reduction in a margin of safety.

The proposed safety limit value has been established in accordance with the methodology for the BHTP correlation to ensure that the applicable margin of safety is maintained (i.e. there is at least 95% probability at a 95% confidence level that the hot fuel rod does not experience DNB). The other reactor core safety limits will continue to be met by analyzing the reload using NRC approved methods and incorporation of resultant operating limits into the Core Operating Limits Report (COLR).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Evangelos C. Marinos.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: August 30, 2007.

Description of amendment request: The proposed amendment would modify Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2) Technical Specification (TS) requirements related to control room envelope habitability in TS 3.7.10, ''Control Room Emergency Ventilation System (CREVS)'' and TS Section 5.5, ''Administrative Controls—Programs and Manuals.'' This change is consistent with Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Change Traveler TSTF–448, Revision 3. The availability of this TS revision was announced in the **Federal Register** on January 17, 2007 (72 FR 2022) as part of the consolidated line item improvement process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration adopted by the licensee is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Mark G. Kowal.

FPL Energy, Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: October 1, 2007.

Description of amendment request: The proposed amendments would revise the accident source term in the design-basis radiological consequences analyses and the associated Technical Specifications (TSs), pursuant to Section 50.67 of Part 50 of Title 10 of the Code of Federal Regulations (10 CFR 50.67). The proposed amendments would revise the licensing basis of Point Beach Nuclear Plant, Units 1 and 2 (PBNP) to support a full-scope application of an Alternative Source Term (AST) methodology. The AST methodology will modify PBNP's licensing bases by: (1) Replacing the current accident source term with an AST as described in 10 CFR 50.67 for design-basis accidents (DBA) radiological consequences, and (2) establishing the 10 CFR 50.67 Total Effective Dose Equivalent (TEDE) dose limits as acceptance criteria for the radiological consequences of DBAs.

TS changes associated with the AST methodology change are: TS 1.1, a reduction in the definition of the maximum allowable containment leak rate. TS 3.4.16, the specific activity of the reactor coolant is revised for dose equivalent iodine. TS 3.7.9, a new mode of operation for the Control Room Emergency Filtration System (CREFS), which will allow operation of the CREFS with filtered outside and filtered recirculated air.

TS 3.7.13, the specific activity of the secondary coolant is revised for dose equivalent iodine. In addition, a modification to the residual heat removal system, containment spray and their support systems, will be made to support operation of the containment spray system during containment spray recirculation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The results of the applicable radiological design basis accident (DBA) re-evaluation demonstrated that, with the requested changes, the dose consequences of these limiting events are within the regulatory limits and guidance provided by the NRC in 10 CFR 50.67 and Regulatory Guide 1.183 for alternative source term (AST) methodology. The AST is an input to calculations used to evaluate the consequences of an accident and does not by itself affect the plant response or the actual pathway of the activity released from the fuel. It does, however, better represent the physical characteristics of the release such that appropriate mitigation techniques may be applied.

The change from the original source term to the new proposed AST is a change in the analysis method and assumptions and has no effect on accident initiators or causal factors that contribute to the probability of occurrence of previously analyzed accidents. Use of an AST to analyze the dose effect of DBAs shows that regulatory acceptance criteria for the new methodology continues to be met. Changing the analysis methodology does not change the sequence or progression of the accident scenario.

The proposed Technical Specification changes reflect the plant configuration that will support implementation of the AST analyses. The equipment affected by the proposed changes is mitigative in nature and relied upon after an accident has been initiated. The operation of various filtration systems, the residual heat removal and the containment spray system, including associated support systems, has been considered in the evaluations for these proposed changes. While the operation of these systems does change with the implementation of an AST, the affected systems are not accident initiators, and application of the AST methodology itself, is not an initiator of a design basis accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

As described in Item 1 above, the changes proposed in this license amendment request involve the use of a new analysis methodology and related regulatory acceptance criteria. The proposed Technical Specification changes reflect the plant configuration that will support implementation of the new methodology. No new or different accidents result from utilizing the proposed changes. Although the proposed changes require modifications to the control room emergency ventilation system, as well as modifications to the residual heat removal system and containment spray system, these changes will not initiate a new or different kind of accident since they are related to system capabilities that provide protection from accidents that have already occurred. As a result, no new failure modes are being introduced that could lead to different accidents. These changes do not alter the nature of events postulated in the Updated Final Safety Analysis Report nor do they introduce any unique precursor mechanisms.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of Safety.

Response: No.

As described in Item 1, the changes proposed in this license amendment involve the use of a new analysis methodology and related regulatory acceptance criteria. The proposed Technical Specification changes reflect the plant configuration that will support implementation of the new methodology. Safety margins and analytical conservatisms have been evaluated and have been found to be acceptable. The analyzed events have been carefully selected and, with plant modifications, margin has been retained to ensure that the analyses adequately bound postulated event scenarios. The proposed changes continue to ensure that the dose consequences of DBAs at the exclusion area and low population zone boundaries and in the control room are within the corresponding acceptance criteria presented in RG 1.183 and 10 CFR 50.67. The margin of safety for the radiological consequences of these accidents is provided by meeting the applicable regulatory limits, which are set at or below the 10 CFR 50.67 limits. An acceptable margin of safety is inherent in these limits.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Antonio Fernandez, Senior Attorney, FPL Energy Point Beach, LLC P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Acting Branch Chief: Travis L. Tate.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1 (NMP1), Oswego County, New York

Date of amendment request: September 27, 2007.

Description of amendment request: The proposed amendment would revise the operability requirements contained in Technical Specification (TS) Section 3.2.7, ''Reactor Coolant System Isolation Valves,'' and associated requirements contained in TS Section 3.6.2, ''Protective Instrumentation.'' The proposed changes would modify the conditions for which reactor coolant system isolation valves (RCSIVs) and associated isolation instrumentation must be operable to include the hot shutdown reactor operating condition (i.e., when fuel is in the reactor vessel and the reactor coolant temperature is greater than 212 °F). In addition, new requirements are proposed to require that the RCSIVs in the shutdown cooling (SDC) system and associated isolation instrumentation be operable during the cold shutdown reactor operating condition (fuel is in the reactor vessel and the reactor coolant temperature is less than or equal to 212 °F) and the refueling reactor operating condition (i.e., when fuel is in the reactor vessel and the reactor coolant temperature is less than 212 °F). These proposed changes will require operability of RCSIVs during conditions other than the power operating condition, and are similar in concept to primary containment isolation valve operability requirements contained in NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4.'' Lastly, TS Section 3.6.2 (Table 3.6.2b) would be revised to delete unnecessary operability requirements for the cleanup system and SDC system high area temperature isolation instrumentation, consistent with the proposed revisions to the RCSIV operability requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes provide more stringent requirements for operation of NMP1. These include requiring operability of RCSIVs and associated isolation instrumentation during the hot shutdown condition and requiring RCSIVs in the SDC system and associated instrumentation to be operable during the cold shutdown and refueling operating conditions. Requiring RCSIV operability during the hot shutdown operating condition ensures that reactor coolant loss in the event of a rupture of a line connected to the reactor coolant system (RCS) is minimized, and the release of radioactive material to the environment is consistent with the assumptions used in the analyses for design basis accidents. Requiring operability of the RCSIVs in the SDC system during the cold shutdown and refueling operating conditions provides protection against potential draining of the reactor vessel through the SDC system during shutdown conditions, which is when the SDC system is normally operated.

In addition, operability requirements for the cleanup system and SDC system high area temperature isolation instrumentation are revised to be consistent with the proposed revisions to the RCSIV operability requirements and with NUREG–1433. The high area temperature isolation instrumentation need not be operable in the cold shutdown and refueling conditions, since the probability and consequences of design basis accidents are reduced due to the pressure and temperature limitations of these operating conditions. Also, system isolation on high area temperature would likely not occur in the event of system leakage or line break since RCS temperature during the cold shutdown and refueling conditions is typically maintained below the high area temperature isolation setpoints (190°F for the cleanup system area and 170°F for the SDC system area).

The revised operability requirements for the RCSIVs and associated isolation instrumentation do not result in operation that would make an accident more likely to occur and do not alter assumptions relative to mitigation of a previously evaluated accident. Therefore, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to the TS operability requirements for the RCSIVs and associated isolation instrumentation do not alter or involve any design basis accident initiators. The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes do impose different RCSIV operability requirements that are more stringent than existing requirements, and incorporate RCSIV isolation instrumentation operability requirements that are consistent with the RCSIV requirements and with NUREG–1433. These changes continue to be consistent with the assumptions in the safety analyses and licensing basis. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the TS operability requirements for the RCSIVs and associated isolation instrumentation ensure that RCSIV closure will occur when required to mitigate the consequences of design basis accidents. The proposed changes also ensure that SDC system isolation can be accomplished to protect against potential draining of the reactor vessel through the SDC system during shutdown conditions, which is when the SDC system is normally operated. The imposition of these revised RCSIV operability requirements either has no impact on or increases the margin of plant safety. The plant responses to accidents will not be adversely affected, and the accident mitigation equipment will continue to function as assumed in the accident analyses. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit No, 2 (NMP2), Oswego County, New York

Date of amendment request: September 19, 2007.

Description of amendment request: The proposed amendment would revise NMP2 Limiting Condition for Operation (LCO) 3.10.1 to expand its scope to include provisions for temperature excursions greater than 200 °F as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice leak or hydrostatic test, while considering operational conditions to be in Mode 4. This change is consistent with Nuclear Regulatory Commission (NRC)-approved Revision 0 to Technical Specification (TS) Task Force (TSTF) Change Traveler, TSTF–484, "Use of TS 3.10.1 for Scram Time Testing Activities." The availability of this TS revision was announced in the **Federal Register** on October 27, 2006 (71 FR 63050) as part of the consolidated line item improvement process. The licensee affirmed the applicability of the model no significant hazards consideration determination in its application.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration adopted by the licensee is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Technical Specifications currently allow for operation at greater than [200]°F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact the probability or consequences of an accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Technical Specifications currently allow for operation at greater than [200]°F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. No new operational conditions beyond those currently allowed by LCO 3.10.1 are introduced. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

Technical Specifications currently allow for operation at greater than [200]°F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact any margin of safety. Allowing completion of inspections and testing and supporting completion of scram time testing initiated in conjunction with an inservice leak or hydrostatic test prior to power operation results in enhanced safe operations by eliminating unnecessary maneuvers to control reactor temperature and pressure. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: September 25, 2007.

Description of amendment request: The proposed amendment would revise the MNGP licensing basis to incorporate the results of a revised small-break loss-of-coolant accident (LOCA) analysis to determining the Low Pressure Coolant Injection (LPCI) loop select logic minimum detectable break area. This analysis showed that a small break, rather than the current large recirculation line break LOCA, would become the limiting accident with respect to peak cladding temperature (PCT). In conjunction with this proposed new licensing basis analysis, the licensee proposed to revise the Table 3.3.5.1–1 (regarding emergency core cooling system instrumentation) of the Technical Specifications (TS) as follows: (1) change the allowable value from the current 24 inch water column to 100 inch water column for Function 2.j, "Recirculation Riser Differential Pressure—High (Break Detection);" and (2) change the associated channel calibration frequency Surveillance Requirement (SR) from a nominal 12-month to a 24-month interval.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC). The NRC staff reviewed the licensee's analysis, and has performed its own as follows:

1. Do the proposed changes involve a significant increase in the probability or

consequences of an accident previously evaluated?

No. The proposed changes to the PCT licensing basis and the TS do not involve a physical alteration of the plant, i.e., no design change to plant system, and no new or different type of equipment will be installed. The proposed PCT change is an analysis result which is within regulatory acceptance limits, and the proposed TS changes reflect the revised analysis. Thus, the proposed changes affect only parameters assumed for certain analyses, but do not adversely affect accident initiators, precursors, plant design, configuration, or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation capability, or radiological consequences of any accident previously evaluated. Furthermore, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, and do not significantly increase individual or cumulative occupational/public radiation exposures. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

No. The proposed changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal plant operation. The requirements in the TS will continue to assure operation of the plant within its design specifications and safety limits. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

No. The proposed amendment would only change the analysis of record LOCA PCT, the allowed value of an instrument function, and its associated SR frequency. There will be no modification of any TS limiting condition for operation, no change to any limit on previously analyzed accidents, no change to how previously analyzed accidents or transients would be mitigated, no change in any methodology used to evaluate consequences of accidents, and no change in any operating procedure or process. Therefore, the proposed amendment does not entail a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on its own analysis and has found that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Acting Branch Chief: Clifford G. Munson.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 5, 2007.

Description of amendment request: The proposed amendment requests a change to Technical Specification 3.7(1)ci, ''Emergency Power Periodic Test,'' related to the surveillance testing of the Fort Calhoun Station emergency diesel generators (DGs) to support a modification to the DG start circuitry.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The removal of the anticipatory (idle speed) diesel generator (DG) start signal on a reactor protective system (RPS) reactor trip does not adversely affect the design function of the DGs and thus is not an initiator of any previously evaluated accidents.

No Updated Safety Analysis Report (USAR) accident analyses take credit for the anticipatory (idle speed) DG start following a design basis accident (DBA). The DGs provide emergency power to their respective 4.16 KV [Kilovolt] buses and will continue to do so after the proposed modification is installed. Upon the occurrence of an undervoltage condition on the bus or an engineered safety features (ESF) signal, the modification provides a full speed DG start to achieve rated voltage and frequency. The safety function of the DGs is not altered by the installation of the modification. The associated Technical Specification (TS) change allows surveillance testing to reflect the way that the DGs start and load onto their respective buses following the modification.

Deletion of a footnote containing historical information pertaining to a one-time surveillance interval extension and the punctuation correction are administrative changes. These administrative changes do not increase the probability or consequences of any accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The removal of the anticipatory (idle speed) diesel generator (DG) start signal on an RPS reactor trip does not adversely affect the design function of the DGs and thus does not create the possibility of a new or different kind of accident. There are no USAR accident analyses which take credit for the anticipatory (idle speed) DG start following a DBA. The DGs provide emergency power to their respective 4.16 KV buses and will continue to do so after the proposed modification is installed. Upon the occurrence of an undervoltage condition on the bus or an ESF signal, the modification provides a full speed DG start to achieve rated voltage and frequency. The safety function of the DGs is not altered by the installation of this modification. The associated TS change allows surveillance testing to reflect the way that the DGs start and load onto their respective buses following the modification.

Deletion of a footnote containing historical information pertaining to a one-time surveillance interval extension and the punctuation correction are administrative changes that do not create the possibility of a new or different kind of accident from any previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The removal of the anticipatory (idle speed) diesel generator (DG) start signal on an RPS reactor trip does not adversely affect the design function of the DGs and thus does not involve a significant reduction in a margin of safety. There are no USAR accident analyses which take credit for the anticipatory (idle speed) DG start following a DBA. The DGs provide emergency power to their respective 4.16 KV buses and will continue to do so after installation of the proposed modification. Upon the occurrence of an undervoltage condition on the bus or an ESF signal, the modification provides a full speed DG start to achieve rated voltage and frequency. The safety function of the DGs is not altered by the installation of this modification. The associated TS change allows surveillance testing to reflect the way that the DGs will start and load onto their respective buses following the modification.

Deletion of a footnote containing historical information pertaining to a one-time surveillance interval extension and the punctuation correction are administrative changes that do not reduce a margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James R. Curtiss, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Thomas G. Hiltz.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 12, 2007.

Description of amendment request: The proposed amendment would modify the Fort Calhoun Station, Unit 1 design and licensing basis to increase the shutdown cooling (SDC) system entry temperature from 300 °F to 350 °F (cold leg), and the SDC entry pressure from 250 psia to 300 psia (indicated at the pressurizer). Additionally, the licensee proposes to change to the Updated Safety Analysis Report (USAR) described design methodology applied to the SDC heat exchangers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The shutdown cooling (SDC) system provides flow to the reactor during long term cooling mode following a large break loss-of-coolant accident (LOCA). In addition, the SDC system can supply cooled sump water to the high pressure safety injection (HPSI) pumps for long term core cooling. The SDC system is also designed to reduce the temperature of the reactor coolant system (RCS) from 300 °F to refueling temperature within 24 hours and to maintain the proper RCS temperature during refueling. As such, the SDC system is not an initiator for any accident previously evaluated.

The proposed change to increase the SDC entry temperature from 300 °F to 350 °F affects the inputs to the analysis of the Boron Dilution Incident.

However, re-analysis of this accident with the increased temperature does not result in an increase in the probability of the accident. The proposed increase in SDC system design and operating temperature and pressure has been evaluated for affects on system piping and components using appropriate codes and standards. The proposed changes do not introduce any failure mechanisms that would initiate a previously analyzed accident. Therefore, the proposed change to uprate the SDC system entry conditions does not result in a significant increase in the probability of a previously evaluated accident.

The potential effect of the proposed change on the consequences of a previously evaluated accident has been considered. Re-analysis of the Boron Dilution Incident with the proposed increased SDC entry temperature does not result in an increase in the consequences of the accident.

In addition, although an increase in the SDC system leakage test pressure is proposed, the leakage test acceptance criteria (i.e., maximum permitted leakage per hour) will not be affected. Therefore, the limit on post-accident leakage to atmosphere from the SDC system is unchanged. The proposed increase in SDC system design and operating temperature and pressure does not affect the redundancy or availability of the SDC system. The design functions of the system are not affected by the proposed change. Therefore, the SDC system will still be capable of performing the safety functions needed to mitigate the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change alters the SDC system entry conditions and increases the system leakage test pressure. In the current design, the SDC system has been excluded from consideration as a pipe rupture initiator since it is not normally in operation. It is used for plant shutdown and startup, and for accident mitigation. With the proposed change, the operating modes of the system will not be affected. The proposed change increases the RCS temperature and pressure at which the SDC system can be placed in service during shutdown (or removed from service during startup), but the RCS, SDC, and other plant systems are not operated in a different manner. The increased heat load on the component cooling water (CCW) system resulting from normal operation of the SDC at increased SDC temperatures has been evaluated. The increased normal operating heat load has been determined to be bounded by the post-accident CCW heat load. Any adjustments to the cooldown rate needed to accommodate the increased SDC entry temperature will be performed using approved procedures consistent with current practice and would not require operating the plant in a different manner.

The RCS cooldown rate limitations in the Technical Specifications (TS) are not affected by the proposed change. In addition, adjustments of CCW heat loads to maintain required CCW inlet temperatures for the SDC (Low Pressure Safety Injection (LPSI)) pump coolers, when operating at the increased SDC entry temperature, will be in accordance with plant procedures and within existing system capabilities. The low temperature overpressurization (LTOP) analysis has been revised for the proposed change. However, there are no effects on existing LTOP setpoints or operating limitations, other than the proposed change to TS 2.1.1(11)(b), which states that the unit cannot be placed on shutdown cooling until the RCS has been cooled to ≤ 350 °F. The proposed change in SDC operating limitations does not introduce the possibility of new or different equipment malfunctions or accident precursors.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margins of safety are established through design parameters, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change increases the SDC system entry conditions for plant shutdown, startup and following postulated accidents, and the SDC system leakage test pressure. However, the accident mitigation function and post-accident operation of the system is not affected. The operating limits on temperature and pressure will remain below the design temperature and pressure for the system. The time interval for operator action after a postulated boron dilution event with the SDC system in operation is reduced, however, the available time remains greater than the minimum required time interval of 15 minutes. The proposed change does not affect any design or operating parameter or setpoint used in the accident analyses to establish the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James R. Curtiss, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Thomas G. Hiltz.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: October 15, 2007.

Description of amendment requests: The proposed amendments would relocate all periodic surveillance frequencies from the technical specifications (TS) and place the frequencies under licensee control in accordance with a new program, the Surveillance Frequency Control Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves the relocation of various surveillance test intervals from TSs to a licensee-controlled program and is administrative in nature. The proposed change does not involve the modification of any plant equipment or affect basic plant operation. The proposed change will have no impact on any safety related structures, systems or components. Surveillance test intervals are not assumed to be an initiator of any analyzed event, nor are they assumed in the mitigation of consequences of accidents. The [Surveillance Requirements] themselves will be maintained in the TS along with the applicable Limiting Conditions for Operation (LCOs) and Action statements. The surveillances performed at the intervals specified in the licensee-controlled program will assure that the affected system or component function is maintained, that the facility operation is within the Safety Limits, and that the LCOs are met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve any physical alteration of plant equipment and does not change the method by which any safety-related structure, system, or component performs its function or is tested. As such, no new or different types of equipment will be installed, and the basic operation of installed equipment is unchanged. The methods governing plant operation and testing remain consistent with current safety analysis assumptions.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change is administrative in nature, does not negate any existing requirement, and does not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. As such, there are no changes being made to safety analysis assumptions, safety limits or safety system settings that would adversely affect plant safety as a result of the proposed change. Margins of safety are unaffected by relocation of the surveillance test intervals to a licensee-controlled program.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: Thomas G. Hiltz.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendments request: October 17, 2007.

Description of amendments request: The proposed amendment would modify the Technical Specifications (TS) to establish more effective and appropriate action, surveillance, and administrative requirements related to the inoperability of snubbers in accordance with Nuclear Regulatory Commission (NRC)-approved TS Task Force (TSTF) change traveler TSTF–372–A, Revision 4. Specifically, the proposed amendment would add Limiting Condition for Operation (LCO) 3.0.8. The NRC staff issued a ''Notice of Opportunity To Comment on Model Safety Evaluation on Technical Specification Improvement To Modify Requirements Regarding the Addition of LCO 3.0.8 on the Inoperability of Snubbers Using the Consolidated Line Item Improvement Process'' in the **Federal Register** on November 24, 2004 (69 FR 68412). The notice included a model safety evaluation (SE) and a model no-significant-hazards-consideration (NSHC) determination. The NRC staff issued a ''Notice of Availability of Model Application Concerning Technical Specification Improvement To Modify Requirements Regarding the Addition of Limiting Condition for Operation 3.0.8 on the Inoperability of Snubbers Using the Consolidated Line Item Improvement Process'' in the **Federal Register** on May 4, 2005 (70 FR 23252). The notice included a model application, including a revised model SE. In its application dated October 17, 2007, the licensee affirmed the applicability of the model NSHC determination which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's assessment and management of plant risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves NSHC.

Attorney for licensee: Daniel F. Stenger, Ballard Spahr Andrews & Ingersoll, LLP, 601 13th Street, NW., Suite 1000 South, Washington, DC 20005.

NRC Branch Chief: Mark G. Kowal.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: October 18, 2007.

Description of amendment request: The proposed amendments to Technical Specification Administrative Controls Section 5.3.1 would revise the training and qualifying education and experience eligibility requirements for certain unit staff positions to correspond to a defined training program. The training program is based on National Academy for Nuclear Training guidance documents (ACADs) as described in the licensee's October 18, 2007, application. The proposed changes will also replace a specific position title with a generic position title for the senior individual in charge of Health Physics. An application that addressed similar issues was previously submitted on October 30, 2006, and notice of that application was provided in the **Federal Register** on July 17, 2007 (72 FR 39084). Due to certain changes in the specifics of the October 18, 2007, application, from those proposed in the October 30, 2006, application, the application is being renoticed in its entirety. This notice supersedes the notice published in the **Federal Register** on July 17, 2007.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to Technical Specifications Administrative Controls Section 5.3.1 involves the use of a more generic designation for the unit staff position responsible for Health Physics without reducing the level of authority required for that position. The proposed change also allows the flexibility to use an accredited program for qualifying personnel to fill certain unit staff positions as stipulated in Enclosure 1 [of October 18, 2007, application], which represents an acceptable alternative to the qualification requirements for these positions as currently specified in the Technical Specifications. Since the proposed changes are administrative in nature, they do not involve any physical changes to any structures, systems, or components, nor will their performance requirements be altered. The proposed changes also do not affect the operation, maintenance, or testing of the plant. Therefore, the response of the plant to previously analyzed accidents will not be affected. Consequently, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed changes to the Technical Specifications will have no adverse impact on the overall qualification of the unit staff. The use of a more generic designation for the unit staff position responsible for Health Physics and the proposed addition [of] a statement to Section 5.3.1 that will reference this letter and the accreditation information for the positions stipulated in Enclosure 1 will allow the use of an accredited program that has been endorsed by the NRC and will ensure the educational requirements and power plant experience for each unit staff position are properly satisfied and will continue to fulfill applicable regulatory requirements. Also, since no change is being made to the design, operation, maintenance, or testing of the plant, no new methods of operation or failure modes are introduced by the proposed changes. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

3. Does the proposed change involve a significant decrease in the margin of safety?

Response: No

The proposed changes to the Technical Specifications will have no adverse impact on the onsite organizational features necessary to assure safe operation of the plant. Lines of authority for plant operation are unaffected by the proposed changes. Also, the adoption of the more generic designation of the individual responsible for Health Physics will reduce the regulatory burden of having to devote limited resources to process a license amendment whenever a title change for this position is implemented. Accordingly, this reduction in regulatory burden and the proposed addition of a statement to Section 5.3.1 that will reference this letter and the use of accreditation information provided in Enclosure 1, will allow the use of an accredited program endorsed by NRC to qualify certain unit staff positions and will improve organizational flexibility without compromising plant safety. Therefore, the proposed changes do not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: Evangelos C. Marinos.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: August 28, 2007, as supplemented on October 9, 2007.

Description of amendment request: The proposed amendments would revise the ''Maximum Power Level'' in paragraph 2.C(1) of the Vogtle Electric Generating Plant Facility Operating Licenses NPF–68 and NPF–81 for Unit 1 and Unit 2, respectively. In addition, the amendments would revise the definition of ''Rated Thermal Power (RTP)'' in Technical Specification 1.1 for both units to reflect the change to the Maximum Power Level. The proposed change increases the RTP from 3565 MWt to 3625.6 MWt, resulting in an increase of 1.7% from the current reactor output. This increase in reactor core power level is referred to as a Measurement Uncertainty Recapture (MUR) power uprate.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Operating License—Maximum Power Level and Technical Specification 1.1—Definition of Rated Thermal Power

The increase in Maximum Power Level and Rated Thermal Power (RTP) does not involve a significant increase in the probability or consequences of an accident previously evaluated, because operation at the higher power level will not cause any design or analysis acceptance criteria to be exceeded. As a result, structural and functional integrity of the plant systems is maintained. Power level is an input assumption to the equipment design and accident analyses, but it is not itself an initiator for any transient. Therefore, the probability of occurrence of an accident previously evaluated is not affected.

The radiological consequences of operation at the Measurement Uncertainty Recapture (MUR) power uprate conditions have been assessed. It was concluded that offsite dose predictions remain within the acceptance criteria for each of the accidents affected. Therefore, the consequences of an accident previously evaluated are not increased.

Technical Specification 1.1—Definition of Dose Equivalent Iodine

The proposed change to the definition of dose equivalent iodine (DEI) impacts the reactor coolant activity surveillance and calculations of accident consequences and makes these activities consistent with each other. Neither of these functions affects the probability of any accident previously evaluated.

In order to support the MUR power uprate, the accidents previously evaluated in the Updated Final Safety Analysis Report (UFSAR) were re-analyzed. As part of this reanalysis, the dose conversion factors (DCFs) were reviewed, and a consistent set of DCFs was used for all re-analyses based on Federal Guidance Report No. 11, as suggested by RIS 2001–19. The results of these re-analyses continue to meet the acceptance limits as currently described in the UFSAR.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.3.1, Table 3.3.1–1, Function 16—P–9 Setpoint

The revised Power Range Neutron Flux P–9 permissive nominal setpoint and allowable value do not involve a significant increase in the probability or consequences of an accident previously evaluated, because operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of any plant system is unaffected. The P–9 permissive function is part of the transient mitigation response and is not itself an initiator for any transient. Therefore, the probability of occurrence of an accident previously evaluated is not affected.

The changes to the P–9 nominal setpoint and allowable value do not affect the integrity of the fission product barriers utilized for the mitigation of radiological dose consequences as a result of an accident. The change continues to ensure that the pressurizer power operated relief valves (PORVs) are not challenged following a turbine trip without a reactor trip which, in turn, minimizes the potential for a release. There are no offsite dose predictions for this transient. Since it has been determined that the transient results are unaffected by the change to the P–9 nominal setpoint and allowable value, it is concluded that the consequences of an accident previously evaluated are not increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Operating License—Maximum Power Level and Technical Specification 1.1—Definition of Rated Thermal Power

The increase in Maximum Power Level and RTP does not create the possibility of a new or different kind of accident from any previously evaluated, because no new operating configuration is being imposed that will create a new failure scenario, and no new failure modes are being created for any plant equipment. System and component design bases have been reviewed. The proposed change does not have an adverse effect on safety-related systems or components and does not challenge the integrity of any safety-related system. Therefore, the types of accidents defined in the UFSAR continue to represent the credible spectrum of events to determine safe plant operation.

Technical Specification 1.1—Definition of Dose Equivalent Iodine

The proposed change to the definition of Dose Equivalent Iodine (DEI) ensures the reactor coolant activity surveillances are consistent with the assumptions for initial conditions used in the accident analyses. The proposed change does not involve the addition or modification of any plant equipment. Neither does it alter the design, configuration or method of operation of the plant.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Technical Specification 3.3.1, Table 3.3.1–1, Function 16—P–9 Setpoint

The revised Power Range Neutron Flux P–9 permissive nominal setpoint and allowable value do not create the possibility of a new or different kind of accident from any previously evaluated, because these changes do not affect accident initiation sequences. No new operating configuration is being imposed by the P–9 nominal setpoint and allowable value changes that will create a new failure scenario. In addition, no new failure modes are being created for any plant equipment. Therefore, the types of accidents defined in the UFSAR continue to represent the credible spectrum of events to determine safe plant operation.

3. Does the proposed change involve a significant decrease in a margin of safety?

Operating License—Maximum Power Level and Technical Specification 1.1—Definition of Rated Thermal Power

The increase in Maximum Power Level and RTP does not involve a significant reduction in a margin of safety, because power level is one of the inherent assumptions that determine the safe operating range defined by the accident analyses, which are in turn protected by the Technical Specifications. The acceptance criteria for the accident analyses are conservative with respect to the operating conditions defined by the Technical Specifications. The engineering reviews performed for the MUR power uprate confirmed that the accident analyses criteria are met at the revised value of MPL and RTP. Therefore, the adequacy of the revised Facility Operating Licenses and Technical Specifications to maintain the plant in a safe operating range is also confirmed, and the increase in MPL and RTP do not involve a significant decrease in a margin of safety.

Technical Specification 1.1—Definition of Dose Equivalent Iodine

The proposed change to the definition of dose equivalent iodine (DEI) has the potential to affect the dose consequences offsite and in the control room. However, the results of the re-analyses of the accidents previously evaluated demonstrate the dose consequences at all locations remain within the regulatory acceptance limits, and the margin of safety as defined by 10 CFR 100 and GDC 19 has not been significantly reduced.

Technical Specification 3.3.1, Table 3.3.1–1, Function 16—P–9 Setpoint

The change to the P–9 nominal setpoint and allowable value does not involve a significant reduction in a margin of safety because the margin of safety associated with the P–9 setpoint, as verified by the results of the applicable transient analyses, is within acceptable limits. The adequacy of the revised Technical Specification values to maintain the plant in a safe operating range has been confirmed. Therefore, the change to the P–9 nominal setpoint and allowable value does not involve a significant decrease in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Branch Chief: Evangelos C. Marinos.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 27, 2007.

Description of amendment request: The amendments would revise the licensee's fire protection program requirements as documented in the licensee's Fire Hazard's Analysis Report. Specifically, the licensee requests the use of reactor operator manual actions in lieu of meeting protection requirements of circuit separation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [Do] the proposed amendment[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of structures, systems and component[s] are not Impacted by the proposed change. The proposed change involves operator manual actions in response to a fire and will not initiate an event. The proposed actions do not increase the probability of occurrence of a fire or any other accident previously evaluated.

The proposed actions are feasible and reliable and demonstrate that the unit can be safely shutdown in the event of a fire. No significant consequences result from the performance of the proposed actions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. [Do] the proposed amendment[s] create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The design function of structures, systems and component[s] are not impacted by the proposed amendment[s]. The proposed change involves operator manual actions in response to a fire. [It does not] involve new failure mechanisms or malfunctions that can initiate a new accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. [Do] the proposed amendment[s] involve a significant reduction in a margin of safety?

Response: No.

Adequate time is available to perform the proposed operator manual actions to account for uncertainties in estimates of the time available and in estimates of how long it takes to diagnose and execute the actions. The actions are straightforward and do not create any significant concerns. The actions have been verified that they can be performed through demonstration and they are proceduralized. The proposed actions are feasible and reliable and demonstrate that the unit can be safely shutdown in the event of a fire.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Branch Chief: Thomas G. Hiltz.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: October 22, 2007.

Brief description of amendment request: The proposed amendment would allow an alternate methodology from that previously approved in Topical Report DOM–NAF–3–0.0–P–A, *GOTHIC Methodology for Analyzing the Response to Postulated Pipe Ruptures Inside Containment*, as discussed in the Surry Power Station, Unit Nos. 1 and 2, Updated Final Safety Analysis Report.

*Date of publication of individual notice in **Federal Register***: October 30, 2007 (72 FR 61406).

Expiration date of individual notice: Public comment period expiration date, November 13, 2007; Hearing period expiration date, January 31, 2008.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by email to *pdr@nrc.gov*.

Dominion Energy Kewaunee, Inc. Docket No. 50–305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of application for amendment: December 15, 2006.

Brief description of amendment: The amendment incorporates changes to the technical specifications (TSs) associated with previously-approved industry initiatives. The first change relocates the actions for a safety limit violation from the administrative controls TS section to the safety limit TS section and deletes notification requirements, as approved by TS Task Force (TSTF) Change Traveler TSTF–05–A, ''Deletion of Safety Limit Violation Notification Requirements.'' The second change incorporates generic position titles, as approved by TSTF–65–A, ''Use of Generic Titles for Utility Positions,'' and incorporates items approved by Nuclear Regulatory Commission Administrative Letter 95–06, ''Relocation of Technical

Specification Administrative Controls Related to Quality Assurance.''

Date of issuance: October 31, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 193.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** March 13, 2007 (72 FR 11386) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Duke Power Company LLC, et al., Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of application for amendments: November 22, 2006.

Brief description of amendments: The amendment revises the Catawba Unit 1 Facility Operating License (FOL) to add a license condition requiring a specific date by which the modifications to the Emergency Core Cooling Systems (ECCS) sump in response to 2004 Generic Letter (GL) 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation During Design Basis Accidents at Pressurized Water Reactors.'' The changes add a license condition which requires that (1) Catawba Nuclear Station, Unit 1 will enter Mode 5 for the outage to install the sump strainer modification no later than May 19, 2008, and that (2) the Unit 1 sump strainer modification will be completed prior to entry into Mode 4 after May 19, 2008.

Date of issuance: October 31, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 237.

Facility Operating License Nos. NPF–35: Amendment revises the license.

Date of initial notice in ***Federal Register:*** March 13, 2007 (72 FR 11386)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 4, 2007.

Brief description of amendment: The amendment revised Technical Specifications (TSs) for the Limiting Conditions for Operation and Surveillance Requirements for Control Rod Operability, Scram Insertion Times, and Control Rod Accumulators.

Date of issuance: November 5, 2007.

Effective date: As of the date of issuance, and shall be implemented within 120 days.

Amendment No.: 230.

Facility Operating License No. DPR–35: The amendment revised the License and TSs.

Date of initial notice in ***Federal Register:*** April 24, 2007 (72 FR 20381).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 2007.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–352 and No. 50–353, Limerick Generating Station, Unit 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: April 12, 2007.

Brief description of amendments: The amendments modify technical specification (TS) requirements related to control room envelope habitability in accordance with TS Task Force (TSTF) Traveler TSTF–448, Revision 2, ''Control Room Habitability.''

Date of issuance: October 31, 2007.

Effective date: As of the date of issuance, to be implemented within 180 days.

Amendment Nos.: 150, 150, 145, 145, 178, 186, 173, 188, 149, 264, and 268.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72, NPF–77, NPF–62, NPF–11, NPF–18, NPF–39, NPF–85, DPR–44, and DPR–56: The amendments revised the Technical Specifications and the Operating Licenses.

Date of initial notice in ***Federal Register:*** June 5, 2007 (72 FR 31100).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment: July 10, 2007.

Brief description of amendment: The amendments revise the value of the safety limit minimum critical power ratio for the Dresden Nuclear Power Station (DNPS), Unit 2 technical specifications (TSs). The amendment also made conforming changes that clarify the wording of the DNPS, Unit 3 TSs.

Date of issuance: November 6, 2007.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 224/216.

Renewed Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register***: July 31, 2007 (72 FR 41783), and September 5, 2007 (72 FR 50986).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 6, 2007.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: November 7, 2007, as supplemented by letter dated January 24, 2007.

Brief description of amendments: The amendments revise Technical Specification (TS) Surveillance Requirement (SR) 3.4.3.1 to increase the allowable as-found main steam safety valve lift setpoint tolerance from ±1 percent to ±3 percent. In addition, the amendments revise TS SR 3.1.7.10 to increase the enrichment of sodium pentaborate used in the standby liquid control system from ≥30.0 atom percent boron-10 to ≥45.0 atom percent boron-10.

Date of issuance: November 1, 2007.

Effective date: As of the date of issuance and shall be implemented prior to main steam safety valve testing during the next refueling outage currently scheduled for May 2009 for Unit 1 and May 2008 for Unit 2.

Amendment Nos.: 235/230.

Renewed Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications and License.

*Date of initial notice in **Federal Register***: January 30, 2007 (72 FR 4307) The January 24, 2007, supplement contained clarifying information and did not change the NRC staff(s initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 1, 2007.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida.

Date of application for amendment: October 11, 2006.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.7.7, ''Nuclear Services Closed Cycle Cooling Water (SW) System,'' to reduce the allowed outage time when one of the required SW heat exchangers is out of service.

Date of issuance: October 23, 2007.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment No.: 225.

Facility Operating License No. DPR–72: Amendment revised the TSs.

*Date of initial notice in **Federal Register***: February 13, 2007 (72 FR 6783).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 2007.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 8, 2007, as supplemented by letter dated August 23, 2007.

Brief description of amendment: The amendment changes the basis for protection of the spent fuel stored in the spent fuel pool (SFP) in order to eliminate the Final Safety Analysis Report commitment for maintaining the SFP missile shields.

Date of issuance: October 24, 2007.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment No.: 226.

Facility Operating License No. DPR–72: Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register***: March 13, 2007 (72 FR 11381). The supplement dated August 23, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 24, 2007.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: October 5, 2006, as supplemented by letters dated April 4 and July 19, 2007.

Brief description of amendment: The amendment changes the restrictions on fuel storage in the spent fuel pool.

Date of issuance: October 25, 2007.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment No.: 227.

Facility Operating License No. DPR–72: Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register***: November 21, 2006 (71 FR 67394). The supplements dated April 4 and July 19, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 2007.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: April 22, 2007.

Brief description of amendments: Amendments delete Section 3.H of Facility Operating License Nos. DPR–67 and NPF–16, which require reporting of violations of the requirements of Sections 3.A, 3.D, 3.F and 3.G of the operating license.

Date of Issuance: October 31, 2007.

Effective Date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 203 and 150.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the operating license conditions and Technical Specifications.

*Date of initial notice in **Federal Register***: June 19, 2007 (72 FR 33783).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: May 4, 2007.

Brief description of amendments: The proposed amendment would incorporate the administrative changes to Technical Specification (TS) 6.2.1.a, ''On and Offsite Organization'' and 6.8.1.a, ''Procedures and Programs.''

Date of issuance: November 2, 2007.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos: 236 and 231.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

*Date of initial notice in **Federal Register***: July 3, 2007 (72 FR 36522).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 2, 2007.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit No. 2, Oswego County, New York

Date of application for amendment: July 23, 2007.

Brief description of amendment: The amendment modifies Technical Specification 3.3.2.1, ''Control Rod Block Instrumentation,'' to allow a new banked position withdrawal sequence for shutdown, using the Consolidated Line Item Improvement Process.

Date of issuance: October 26, 2007.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 120.

Renewed Facility Operating License No. NPF–69: Amendment revised the License and Technical Specifications.

*Date of initial notice in **Federal Register***: September 25, 2007 (72 FR 54477).

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated October 26, 2007.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: May 10, 2007.

Brief description of amendments: The requested changes are a partial adoption of Technical Specification Task Force (TSTF)–491, Revision 2, ''Removal of Main Steam and Feedwater Valve Isolation Times'' which was proposed by the TSTF by letter on May 18, 2006. The proposed changes revise Technical Specification (TS) 3.7.2 ''Main Steam Valves Closure Times'' by relocating the isolation valve closure times to a licensee-controlled document identified as a Bases reference. The proposed amendments deviate from TSTF–491 in that the current PINGP TS (3.7.3) and associated surveillance requirements for the main feedwater isolation valves do not include valve closure times, and thus, the changes to TS 3.7.3 provided for in TSTF–491 are not applicable to the PINGP TSs and are not adopted. TSTF change traveler TSTF–491, Revision 2, was announced for availability in the **Federal Register** on December 29, 2006, as part of the consolidated line item improvement process.

Date of issuance: October 31, 2007.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 181 and 171.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: July 17, 2007 (72 FR 39083).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California.

Date of application for amendments: April 17, 2007.

Brief description of amendments: The amendment modified Technical Specifications requirements related to control room envelope habitability in accordance with Technical Specifications Task Force 448, Revision 3, using the Consolidated Line Item Improvement Process.

Date of issuance: October 31, 2007.

Effective date: as of its date of issuance, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2–214; Unit 3–206.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 22, 2007 (72 FR 28722). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: May 21, 2007, as supplemented by letter dated June 11, 2007.

Brief description of amendment: The amendment modified the technical specification (TS) requirements for inoperable snubbers by adding Limited Condition for Operation 3.0.8, using the Consolidated Line Item Improvement Process. The change is based on TS Task Force (TSTF) TSTF–372, Revision 4.

Date of issuance: October 17, 2007.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 251, 231.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the licenses and the technical specifications.

Date of initial notice in ***Federal Register***: June 19, 2007 (72 FR 33785) The supplement dated July 11, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 17, 2007.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: May 29, 2007.

Brief description of amendment: The amendments modify the Technical Specification requirements related to control room habitability, using the Technical Specification Task Force traveler, TSTF–448, revision 3.

Date of issuance: October 31, 2007.

Effective date: As of the date of issuance and shall be implemented within 180 days from the date of issuance.

Amendment Nos.: 252, 232.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** July 3, 2007 (72 FR 36523).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2007.

No significant hazards consideration comments received: No.

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

For The Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–22331 Filed 11–19–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56784; File No. SR-CHX–2007–25]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto to Eliminate References to the ITS Plan and Other Now-Obsolete Matters

November 14, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''), [1] and Rule 19b–4 thereunder, [2] notice is hereby given that on October 17, 2007, the Chicago Stock Exchange, Inc. (''CHX'' 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 CHX. On November 9, 2007, CHX filed Amendment No. 1 to the proposed rule change. CHX has designated the proposed rule change as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to eliminate now-obsolete references to the Intermarket Trading System Plan (''ITS Plan''), the NMS Linkage Plan, the telephonic access requirements of the Nasdaq/UTP Plan and the compliance date for Rule 611 (''Trading Phase Date'') of Regulation NMS (''Reg NMS''). The text of the proposed rule change is available at CHX, the Commission's Public Reference Room, and *http://www.chx.com/rules/proposed_rules.htm*.

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 CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2006, the Exchange made a substantial number of changes to its rules in connection with its implementation of a new trading model.[5] At the time these new rules were approved, the Nasdaq/UTP Plan still required participant exchanges to provide NASD market participants with telephonic access to their quotes; the ITS Plan was still in effect and the NMS Linkage Plan had just been approved; and the Trading Phase Date was still several months away. As a result, the Exchange's rules contained references to these plans and to the way that the Exchange's rules should operate both before and after the Trading Phase Date.[6]

In the ensuing months, however, the ITS Plan has been eliminated; the NMS Linkage Plan has terminated; the Trading Phase Date has passed; and the access requirements of the Nasdaq/UTP Plan have changed.[7] The Exchange now proposes to update its rules to eliminate all now-outdated references to the ITS and NMS Linkage Plans, to the compliance or effective dates of any provisions of Reg NMS and to the telephonic access requirements of the Nasdaq/UTP Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5) of the Act,[9] in particular, in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by updating the Exchange's rules to eliminate outdated references to matters that are no longer relevant.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(1) Significantly affect the protection of investors or the public interest;

(2) impose any significant burden on competition; and

(3) by its terms become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] As required under Rule 19b–4(f)(6)(iii) under the Act, the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) under the Act[12] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CHX has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[14] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal allows the Exchange to immediately update its rules to reflect, among other changes, the termination of the NMS Linkage Plan, the elimination of the ITS Plan, and the implementation of Reg NMS.[15] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[16]

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (approving CHX's proposed new trading model).

[6] *See, e.g.*, Article 1, Rule 1(o) (defining the term NBBO both before and after the full implementation of Reg NMS); and Article 19 (containing the ITS rules).

[7] *See* Securities Exchange Act Release Nos. 55397 (March 5, 2007), 72 FR 11066 (March 12, 2007) (eliminating the ITS Plan); 54551 (September 29, 2006), 71 FR 59148 (October 6, 2006) (approving the NMS Linkage Plan, with a termination date of June 30, 2007); 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007) (File No. S7–10–04) (extending the Trading Phase Date from February 5, 2007 to March 5, 2007); and 54936 (December 14, 2006), 71 FR 76381 (December 20, 2006) (approving Amendment No. 18 to the Nasdaq/UTP Plan, which, in general terms, replaced the telephonic access requirements with market access requirements consistent with Rule 610).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *Id.*

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] The effective date of the original proposed rule is October 17, 2007. The effective date of

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-CHX–2007–25 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2007–25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. 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–CHX–2007–25 and should be submitted on or before December 11, 2007.

Amendment No. 1 is November 9, 2007. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on November 9, 2007, the date on which CHX submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–22627 Filed 11–19–07; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5994]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Open Competition Seeking Professional Exchange Programs in Africa, East Asia, Europe, the Near East, North Africa, South Central Asia, and the Western Hemisphere

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C–08–01.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates:

Application Deadline: February 15, 2007.

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for grants that support exchanges and build relationships between U.S. non-profit organizations and civil society and cultural groups in Africa, East Asia, Europe, the Near East, North Africa, South Central Asia and the Western Hemisphere. Pending availability of funds, it is anticipated that approximately $5,000,000 or more will be available to support this competition. ECA/PE/C expects to fund approximately 15–20 projects under this competition in FY 2008. U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support the goals of The Professional Exchange Program. Projects should promote mutual understanding and partnerships between key professional and cultural groups in the United States and counterpart groups in other countries through multi-phased exchanges taking place over one to two years. Proposals should encourage citizen engagement in current issues, with a particular focus on youth and those who influence them, and promote the development of democratic societies and institutions, with a view toward creating a more stable world. To the fullest extent possible, programs should be two-way exchanges supporting roughly equal numbers of participants from the U.S. and foreign countries.

Proposed projects should transform institutional and individual understanding of key issues, foster dialogue, share expertise, and develop capacity. Through these people-to-people exchanges, the Bureau seeks to break down stereotypes that divide peoples, to promote good governance and economic growth, to contribute to conflict prevention and management, and to build respect for cultural expression and identity in the world. Projects should be structured to allow American professionals and their international counterparts in eligible countries to develop a common dialogue for dealing with shared challenges and concerns. Projects should include current or potential leaders who will effect positive change in their communities. Exchange participants may include community leaders, elected and professional government officials, religious leaders, educators, and proponents of democratic ideals and institutions, including for example, the media and judiciary, or others who influence the way in which different communities approach these issues. The Bureau is especially interested in engaging socially and economically diverse groups that may not have had extensive contact with counterpart institutions in the United States and particularly seeks proposals that engage educators or other groups that directly influence youth in innovative ways.

Applicants may not submit proposals that address more than one region or that include countries not eligible under a specific theme designated in the RFGP. Proposals that do so will be declared technically ineligible and will receive no further consideration in the review process. For the purposes of this competition, eligible regions are Africa, East Asia, Europe, the Near East, North Africa, South Central Asia, and the Western Hemisphere. No guarantee is made or implied that grants will be awarded in all themes and for all countries listed.

I. Funding Opportunity Description

II. Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The competition is based on the premise that people-to-people exchanges encourage and strengthen understanding of democratic values, nurture the social, political, cultural, and economic development of societies and encourage a more active citizenry. Exchanges supported by institutional grants from the Bureau should operate at two levels: they should enhance partnerships between U.S. and foreign institutions, and they should establish a common language to develop practical solutions for shared problems and concerns. The Bureau is particularly interested in projects that will create mutually beneficial and self-sustaining linkages between professional communities in the U.S. and their counterpart communities in other countries. Applicants must identify the U.S. and foreign organizations and individuals with whom they are proposing to collaborate and describe previous cooperative activities, if any. Information about the mission, activities, and accomplishments of partner organizations should be included in the submission. Proposals should contain letters of commitment or support from partner organizations for the proposed project. Applicants should clearly outline and describe the role and responsibilities of all partner organizations in terms of project logistics, management and oversight.

Competitive proposals will include the following:

• A brief description of the issue to be addressed and how it relates to the target country or region. (Proposals that request resources for an initial needs assessment will be deemed less competitive under the review criterion Program Planning and Ability to Achieve Objectives, per item V.1 below.);

• A clear, succinct statement of program objectives and expected outcomes that responds to Bureau goals for each theme in this competition. Desired outcomes should be described in qualitative and quantitative terms. (See the Program Monitoring and Evaluation section per item V.1 below, for more information on project objectives and outcomes.);

• A proposed timeline, listing the optimal schedule for each program activity;

• A description of participant recruitment and selection processes;

• Letters of support from foreign and U.S. partners. (*Letters from prospective partner institutions should demonstrate a capacity to arrange and conduct U.S. and overseas activities.*);

• An outline of the applicant organization's relevant expertise in the project theme and country(ies);

• An outline of relevant experience managing previous exchange programs;

• Resumes of experienced staff who have demonstrated a commitment to implement and monitor projects and ensure outcomes;

• A comprehensive plan to evaluate whether program outcomes will achieve the specific objectives described in the narrative. (See the Program Monitoring and Evaluation section [IV.3d.d below] for further guidance on evaluation.);

• A post-grant plan that demonstrates how the grantee plans to maintain contacts initiated through the program. Applicants should discuss ways that U.S. and foreign participants or host institutions will collaborate and communicate after the ECA-funded grant has concluded. (See Review Criterion #5, per item V.1 below for more information on post-grant activities.)

• Successful projects will demonstrate the importance Americans place on community service as an element of active citizenship and may include ideas and projects to strengthen civil society through community service either during participants' stay in the U.S. or upon their return to their countries.

• In addition to addressing the specific themes described below, proposals should develop partner organizations' capacity in such areas as strategic planning, performance management, fund raising, financial management, human resources management, and decision-making.

U.S. Embassy Involvement: Before submitting a proposal, all applicants are *strongly* encouraged to consult with the Washington, DC-based State Department contact for the themes/regions listed in this solicitation. Applicants are also *strongly* encouraged to consult with Public Affairs Officers at U.S. Embassies in relevant countries as they develop proposals responding to this RFGP. Also, it is important that the proposal narrative clearly state the applicant's commitment to consult closely with the Public Affairs Section of the U.S. Embassy in the relevant country(ies) to develop plans for project implementation and to select project participants. Proposals should also acknowledge U.S. Embassy involvement in the final selection of all participants. Applicants should state their willingness to invite representatives of the Embassy(ies) and/or consulate(s) to participate in program sessions or site visits.

ECA/DOS Acknowledgement: Narratives should state that all material developed for the project will prominently acknowledge Department of State ECA Bureau funding for the program.

Outreach: Applicants who receive assistance awards are encouraged to engage in outreach activities that will promote the goals of the project and increase the visibility of the project activities, including public events and appropriate media appearances.

FY 2008 Thematic Topics by Region

REGION: Africa (AF):

AF: Economic Growth to Fight Poverty and Strengthen Democracy.

Program Contact: Curtis Huff, tel: (202) 453–8159, e-mail: *HuffCE@State.gov.*

Project Goals: ECA seeks proposals that promote entrepreneurial thinking, job creation, business planning, and management skills that will assist young African adults in launching business careers. Programs should increase understanding of the links between entrepreneurial activity and free markets as well as the importance of transparency and accountability in business and government. Proposals should also increase understanding among African and American participants of the influence of culture on business.

Audience: Young adults, 25–32, especially women.

Eligible Countries: Ghana, Kenya, Liberia, Mali, Nigeria, Senegal, South Africa, Tanzania, Uganda, and Zambia.

Successful programs will achieve the following:

• Educate young men and women in entrepreneurial thinking, business management skills, and attracting investment, with also the ability to design training and to lead others in building these skills.

• Enhance appreciation for American business practices and the role of the individual in creating growth through grassroots-focused entrepreneurial efforts.

• Develop enduring professional ties between U.S. and partner organizations and expand leadership skills.

• Enable participants to initiate and support development and community service activities in their home countries.

Successful applicants must demonstrate a capacity to conduct the following activities:

(1) Work jointly with an African partner organization to develop a useful business skills program for young adult Africans that includes activities in both the U.S. and Africa.

(2) U.S. experts travel to Africa for in-country consultations and preliminary trainings. Working with the African partner, U.S. experts recruit and select African participants for a U.S.-based fellowship program.

(3) Provide a six- to ten-week U.S.-based fellows program for 10 to 15 Africans on business development that features both individualized and group learning and practice activities which develop technical and leadership skills plus cultural sensitivity.

(4) As a counterpart to the fellows program in the U.S., provide a multi-week program in Africa for 10–15 Americans to learn about business challenges and opportunities there and to assist in conducting workshops for a wider audience of Africans.

(5) Develop enhancement activities and leadership development opportunities to reinforce program goals after all participants' return to their home country. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. Grantee sends Americans to work alongside African partners for two weeks or more to examine the needs of young adults in starting businesses in the region, and any in-country efforts that are already underway or planned to address those needs. These activities should include development of a working relationship among the Americans, their African project partners, and any African government offices that have responsibility for business development.

2. Grantee works with African partner organization to recruit a pool of 50 or more Young Professionals who are interested in starting businesses and will commit to a multi-staged development program.

3. Grantee and partner conduct a business skills program in Africa for the 50+ recruits, including instruction on how to write a business plan. Participants are invited to submit business plans to program organizers.

4. Competition is held where those who develop the best plans will be offered a U.S.-based fellowship program.

5. African participants come to the U.S. for fellowship program of six to ten weeks that features both individualized and group learning and practice activities which develop technical and leadership skills plus cultural sensitivity. (A shorter-term study tour for Africans will be considered inadequate.)

6. Grantee and African partner commit to a plan for additional business skills development activities in Africa after the grant is finished. These plans might include additional basic business training or mentoring of new businesses by American specialists and maintenance of a Web site for this purpose.

7. Grantee and African partner keep each other informed of developments in business education through email, telephone, video conferences, travel, etc, in order to maintain an informed momentum in their partnership.

AF: Local Governance.

Program Contact: Curtis Huff, tel: (202) 453–8159, e-mail: *HuffCE@State.gov.*

Project Goals: ECA is seeking proposals that promote democratic institutions that are effective, responsive, transparent, and accountable to the people. Programs should increase skills and commitment to professional standards in municipal planning, policy analysis, bill drafting, budgeting, constituent relations, project implementation, and administration of services. Programs should promote the establishment of responsible watchdog organizations and develop a constructive working relationship with local government officials.

Audience: Mayors, city councilors, public administrators, executives, municipal planners, and community watchdog leaders (especially women).

Eligible Countries: Democratic Republic of Congo, Ghana, Kenya, Liberia, Mali, Nigeria, Rwanda, Senegal, South Africa, and Tanzania.

Successful programs will achieve the following:

• Educate local officials in a professional approach to public administration and empower them to conduct it with integrity and effectiveness while also designing training and building the ability to lead others in this field.

• Enhance appreciation for American local governmental practices and the role of the watchdog groups.

• Establish structured interaction among American and African participants designed to develop enduring professional ties.

• Present plans to enable participants to initiate and support activities in their home countries that focus on local development and community service.

Successful applicants must demonstrate a capacity to conduct the following activities:

(1) Work jointly with an African partner organization to develop an effective governance skills program for young adult Africans that includes activities in both the U.S. and Africa.

(2) Provide a six- to ten-week U.S.-based fellows program for 10 to 15 Africans on local government.

(3) As a counterpart to the fellows program in the U.S., provide a multi-week program in Africa for 10–15 Americans to learn about local governance challenges and opportunities there and to assist in conducting workshops for a wider audience of Africans.

(4) Grantee and African partner commit to a plan for additional local governance skills development activities in Africa after the grant is finished. These plans might include additional basic training or mentoring and maintenance of a web site for this purpose.

(5) Launch a self-sustaining program of enhancement activities and leadership development opportunities to reinforce program goals after all participants' return to their home country. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. Grantee sends Americans to work alongside African partners for two weeks or more to learn about the local governance efforts in the region.

2. Grantee and partner conduct a local governance education program in Africa for local leaders. Program participants would then be invited to submit training plans, with the incentive that those who produce the best plans will be invited to the U.S. for fellowships.

3. Competition is held where those who develop the best plans will be offered a U.S.-based fellowship program.

4. African participants come to the U.S. for fellowship program of six to ten weeks that features both individualized and group learning and practice activities which develop technical and leadership skills plus cultural sensitivity. (A shorter-term study tour for Africans will be considered inadequate.)

5. Grantee and African partner commit to a plan for follow-on activities in Africa after the grant is finished. These plans might include additional

training in public administration or even the development of a public administration academy.

6. The grantee and African partner keep each other informed of developments in public administration education through email, telephone, video conferences, travel, etc, in order to maintain their partnership.

REGION: East Asia and the Pacific (EAP):

EAP: Active and Responsible Citizenship.

Program Contact: Clint Wright, tel: (202) 453–8164, e-mail: *WrightHC@state.gov.*

Project Goals: ECA encourages proposals that will help educate citizens, local officials, and leaders of non-government organizations on their rights and responsibilities in a democracy. Programs should encourage the empowerment of foreign participants to participate in the development of public policy, public discussions, and debates by developing individual skills and organizations. Projects should engage government and NGO leaders in dialogue on issues impacting local communities and engage government leaders—national and local—on the importance of citizen participation in governmental decision-making. Projects should examine specific practices that promote an effective, accountable, transparent and responsive government and public administration that is crucial to the development of democracy.

Audience: Should include representatives from government and non-governmental organizations, professional associations and community leaders between the ages of 25 and 40 with an emphasis on equal numbers of men and women.

Eligible Countries: Indonesia, Malaysia, the Philippines, and Vietnam. (single-country projects only).

Successful programs will achieve the following:

• Encourage an understanding of the important elements of a civil society. This includes concepts such as volunteerism, grassroots activism, and the importance of the rule of law in all societies.

• Programs should help develop an appreciation for American governmental and legal structures, an understanding of the diversity of American society, and the necessity for increased tolerance and respect for others with differing views and beliefs.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 10 to 15 individuals from government, nongovernmental organizations, and community leaders throughout the target country, including private business leaders for a six to eight week U.S.-based fellows program. Partnering with organizations based in the proposed host-country is required.

(2) Coordinate and program the fellowships.

(3) The final part of the program will be conducting enhancement activities and leadership development opportunities that reinforce program goals after the participants' return to their home country. An essential follow on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. U.S. grantee identifies U.S. citizens to conduct in-country seminar for citizen leaders, teachers, NGO representatives, media, elected local government officials, and legal professionals to discuss transparency and accountability. The in-country partner (a local university or other appropriate professional group) will co-host the event with the U.S. grantee institution. During this phase, the grantee will openly recruit and select the participants to take part in the U.S.-based fellows program.

2. The grantee implements the U.S.-based fellowships in local elected officials' offices, NGO organizations, and citizen organizations.

3. An in-country program would be conducted by the U.S. experts who served as fellowship hosts or seminar leaders. The participants in U.S. program would help design seminars and serve as co-presenters. Organizers broaden impact through public outreach, including media.

4. Project may also support materials translated into native language, small grants for projects designed to expand the exchange experience, and support for the development of alumni association.

REGION: Europe (EUR):

EUR: Legislative Education and Practice Program (LEAP).

Program Contact: Jon Crocitto, Tel. (202) 453–8149; e-mail: *CrocittoJA@state.gov.*

Project Goals: In some European countries, concepts such as free democratic elections and political parties are still not very developed and other aspects of democracy almost seem to be moving backward. Free and democratic elections and civic activism and engagement are the backbone of a civil society. LEAP is designed to strengthen understanding of the U.S. legislative process and enhance appreciation of civic society. LEAP will provide Young Professionals from Europe with hands-on exposure to the U.S. political process through six-month internships in state legislatures, city councils or local governments in the U.S. U.S. participants should be selected among staff members at the various internship sites who will act as primary host/mentors to the foreign fellows during their U.S.-based program. After the internships are completed, these U.S. staff members will travel overseas to the interns' home countries. There they will participate in joint outreach activities, including media, and conduct on-site consultancies and presentations to wider audiences.

Audience: Generally, ECA prefers program participants who have not previously been part of U.S.-based exchange programs as participants in new programs. However, the LEAP program is an exception. Because of the unique nature of this program, foreign participants who are alumni of long-term exchange programs (an academic year or more) in the United States (USG or privately sponsored) are favored as participants in this program. These alumni have previous experience living and attending school in the U.S. that will provide them with the cultural and linguistic background necessary to benefit fully from the program. The foreign participants should be selected through a merit-based, competitive process. They should be recent university graduates in political affairs or other relevant fields—approximately mid to late 20's in age, with some professional experience in the political or legislative arenas. Participants should have demonstrated leadership abilities and a commitment to or participation in the political process or policy-making through involvement in civic education activities, citizen advocacy groups, political campaigns, political parties, or election monitoring in their home countries. U.S. participants will be staff members of the state legislatures, city councils or local governments who act as hosts for the foreign participants during the inbound portion of the program.

Eligible Countries (all should be included): Turkey, Russia, Ukraine, Georgia.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Manage (both programmatically and logistically) the program in the United States and overseas. Interested organizations must have offices and staff (or partner organizations) in all countries involved in the program. Close coordination with ECA and U.S.

Embassy Public Affairs Sections in relevant countries will be essential.

(2) Conduct recruitment and selection of participants through a merit-based competitive process. A pre-departure and an arrival orientation to ensure that participants have realistic expectations and have essential information on their individual internships, host communities, their responsibilities, and logistics should be included. Use of host families for foreign participants in the U.S. is highly encouraged.

(3) Organize an intensive introduction to the U.S. political process to take place in whole or in part in Washington, DC.

(4) Identify and manage individualized internships with state legislators, city councils or local government that will expose participants to citizen participation in the political process. Internships at the state level would be strongly preferred.

(5) Coordinate all logistics and programming for consultancy and training program where U.S. participants will travel to the countries where foreign participants are from for two to three weeks. The U.S. participants would conduct workshops and trainings that cover the U.S. legislative process and will enhance appreciation of civic society. The training(s)/workshop(s) should be designed to engage a broad audience, not just program participants. The U.S. participants would also engage in joint outreach efforts, including engagement with the media.

Possible Program Model:

1. U.S. grantee and in-country partner select about 20 foreign participants to participate in the U.S.-based program followed by a four to six month internship in state legislatures, city councils or local governments in the U.S. for foreign participants.

2. An in-country program for 10 to 15 U.S. participants (who hosted/worked with the foreign participants in the U.S.) for two to three weeks. This would include on-site consultancies and group workshop(s) for a broad audience. Foreign participants help design the seminars and serve as co-presenters.

3. A series of enrichment activities that could include support materials translated into target language, small grants for projects designed to expand the exchange experience, the creation of a web portal for ongoing virtual program activities and communication, and other activities.

EUR: Outreach and Integration of Marginalized Populations in Western Europe.

Program Contact: Brent Beemer, tel: (202) 453–8147, e-mail: *BeemerBT@state.gov.*

Note: Interested Applicants are HIGHLY encouraged to contact ECA before submitting a proposal under this theme.

Project Goals: ECA seeks programs that will engage community leaders, educators, youth influencers, journalists, and community-based organizations in examination of programs and practices to facilitate integration and empowerment of minority populations, particularly youth, in Western European countries. This program would look at issues related to the integration of immigrant and minority populations into a modern democratic society. This includes integration in the political system, economic opportunity, freedom of expression, access to education, and practice of an open social/cultural life, while maintaining ethnic identity within a multi-ethnic society. A specific concentration of programming on immigrant and minority youth populations and the special needs/challenges they face in modern society should be a major focus. An overall comparison and sharing of best practices in the U.S. and in the Western European countries on these issues should also be included. Programming should include an overview of U.S. and European government and legal structures, an understanding of the diversity of American and European societies and efforts to increase tolerance and respect for others with differing views and beliefs. Program content will include an overview of the range of historical and current American and European experiences with integrating various immigrant and minority citizens, examination of what has worked well and what has not, and analysis of the range of actors including government, NGOs, religious organizations, immigrant organizations, educational institutions, and the role of the media and public who report on these issues.

Audience: Participants (from the U.S. and foreign countries) in the program should include representatives of non-governmental organizations, community leaders, educators, youth influencers, religious leaders, and journalists from minority communities. Note: European Union, national, and regional government officials are welcome to be part of programming, but given funding limitations, ECA funds may not be used to support their travel expenses.

Eligible Countries (single-country projects only) Denmark, United Kingdom.

Successful programs will achieve the following:

• An understanding of issues related to the status of immigrant and minority populations in a modern democratic society. This includes integration in the political system, economic opportunity, and freedom of expression, education, and social/cultural life, while maintaining ethnic identity within a multi-ethnic society. A specific understanding of immigrant and minority youth populations and the special needs/challenges they face in modern society is envisioned.

• An appreciation for American governmental and legal structures, and a better understanding of the diversity of American society and efforts over the nation's history to increase tolerance and respect for others with differing views and beliefs. Program content will include an overview of the range of historical and current American experience with integrating various immigrant and minority citizens, examination of what has worked well and what has not, and analysis of the range of actors including local government, NGOs, religious organizations, immigrant organizations, educational institutions, and the role of the media.

• An enhanced leadership capacity that will enable participants to initiate and support activities in their home countries that focus on the status of minority populations.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 15 to 20 individuals throughout the target country. Program should be designed for two groups to travel to the U.S. Partnering with organizations based in target country is required. Also, given resources available in Western Europe, successful applicants will have West European partners that will cover considerable program costs within the host country and cover all its own administrative costs for this project.

(2) In addition to identifying in-country partner and screening, selecting, and preparing participants prior to departure for the United States, the recipient of this grant will be responsible for building and executing a three to four week informative travel and training program in the United States.

(3) Conduct an in-country workshop(s) to examine the process of integration of marginalized populations in Europe and developing strategies to address these issues. The workshop(s) should be designed to engage a broad audience, not just program participants.

(4) Develop enhancement activities and development opportunities that reinforce program goals after the participants' return to their home country. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. U.S. grantee and in-country partner identify West European citizens to participate in the U.S.-based program. Then a three to four week U.S. program that includes an orientation, study tour/site visits; possible short-term internships/work shadowing opportunities; hands on training/training-of-trainers; professional development; and the development of action plans.

2. An in-country workshop(s) for a broad audience to examine the process of integration of minority communities. Program conducted by U.S. experts that served as hosts or seminar leaders. Participants in U.S. program design the seminar and serve as co-presenters.

3. Enrichment activities that could include support materials translated into native language, small grants for projects designed to expand and sustain the exchange experience, and other activities.

REGION: Near East and North Africa (NEA):

NEA: Professional Mentoring for Women in Science and Technology.

Program Contact: Thomas Johnston, Tel: (202) 453–8162; e-mail: *JohnstonTJ@state.gov.*

Project Goals: ECA seeks proposals that will engage young women who have recently embarked on professions in fields requiring skills in mathematics, scientific and/or technological fields. Proposals should encourage the use of critical thinking in the professional sphere as well as other aspects of life. Proposals should include plans to provide eight- to ten-week mentorships in American laboratories, professional or commercial research and development labs, or in the high tech industries. This program will also send American specialists in similar fields to conduct/participate in seminars, workshops, on-site consultancies, and other types of activities in the home countries of Middle East participants, with the goal of reinforcing the mentorship experience and creating a wider network of women who are established in these professions or who aspire to do so. A principal goal of this program is the development of sustainable, long-term institutional and individual linkages based on the relationships established between U.S. mentors and non-American fellows.

Mentoring programs for English-speaking fellows would be designed as individual affiliations with an appropriate American professional counterpart. Proposals should also envision small specialized shadowing opportunities for groups of 2–3 international participants without strong English skills. These group opportunities should incorporate diverse training methodologies and include full-time provision of an escort/interpreter. All proposals should also include a U.S. program component allowing all participants to come together, learn from each other and to build relationships.

The Department has initiated outreach to women in science and technology in the Middle East through previous contact and conferences; organizers of previous projects may be consulted for additional contacts and information. Applicants for this ECA grant are encouraged to contact the ECA Program Officer, Thomas Johnston, for additional information and contacts.

Audience: Middle Eastern participants will be women (22–35 years of age) who are newly engaged or rising in professional careers that require significant expertise/knowledge of mathematics, science, technology and/or innovative application of these skills, and who already are, or show promise of being, role models for others in their countries, particularly for women. We would consider, for example, a lawyer, whose work requires expert knowledge of environmental science as well as international law to be eligible for this program.

Eligible Countries: Algeria; Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Morocco; Oman; Qatar; Saudi Arabia; Syria; United Arab Emirates; West Bank/Gaza; Yemen.

Successful applicants must demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 15 to 20 qualified individuals from throughout the eligible region, with representatives from as many countries as possible. The program should be designed for non-American fellows to travel to the United States for a group orientation program, even if they will be subsequently be engaged in individualized programs, in order to foster networking among the group. An in-country or in-region partner organization or affiliate offices overseas is required to coordinate recruiting and selection. Proposing organizations must be prepared to mount a merit-based selection process, to be described in the proposal.

(2) In addition to identifying its in-country (or in-region) partner and identifying, selecting, and preparing participants prior to departure for the United States, the recipient of this grant will be responsible for building and implementing an eight- to ten-week professional mentoring experience and training program in the United States. This will focus primarily upon individualized fellowships for the foreign participants at the R & D facilities of U.S. businesses, non-university high-tech institutes, or other appropriate affiliation as well as a commitment of appropriate American professional counterpart women to serve as mentors. The final selection of foreign fellows should take into account the types of placements that may be available in the U.S. ECA seeks creative and cost-efficient approaches to this selection and placement program.

(3) Conducting an in-country consultancy program and/or workshop in each participating country, during which the international fellow and American mentor will offer skill development and networking workshops for a broader range of program participants in that country.

(4) The development of a Web site designed to foster ongoing communication among the international and American participants and to publicize the results of this program. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. U.S. grantee and in-country partner institution select young non-American women engaged in science and technology for participation in the U.S.-based mentoring/fellowship program.

2. An eight- to ten-week U.S. program that includes an orientation followed by individualized fellowships for English speakers; a shorter program designed around work shadowing opportunities with interpretation for groups of 2–3 non-English speakers.

3. An in-country program in each international participating country for one or more of the American mentors (who hosted/worked with the foreign participants in the U.S.). The in-country program would include on-site consultancies, group workshops/seminars and networking opportunities for a broad audience. Foreign participants would help design the seminars and serve as co-presenters.

4. The development of a project specific Web site, as well as enrichment activities that could include having support material translated into the native language, small grants for research-development projects designed

to expand the exchange experience, and other activities.

NEA: Math, Science, and Technology in Secondary Schools.

Program Contact: Thomas Johnston, Tel: (202) 453–8162; e-mail: *JohnstonTJ@state.gov.*

Project Goals: ECA seeks program proposals that will help develop institutional (and personal) linkages between secondary school teachers and administrators in the United States and partners in the NEA region in the disciplines of math, science, and technology innovation. ECA is looking to support creative programs that will link secondary school teachers and administrators from the U.S. and overseas in programming designed to explore approaches to engaging students in critical thinking, particularly in the teaching of math, science, and innovative approaches to technology, both in the classroom and through focused extracurricular activities, and to examine how professional counterparts in participating countries engage the successor generation.

Audience: Math, science, and technology secondary school teachers and administrators.

Eligible Countries: Algeria; Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Libya; Morocco; Oman; Qatar; Saudi Arabia; Syria; United Arab Emirates; West Bank/Gaza; Yemen.

Successful programs will achieve the following:

• An understanding of techniques used in the NEA region and in the United States to promote student engagement in critical thinking and discovery, particular in math, science, and technology.

• Develop opportunities for productive personal relationships between groups from participating countries that could lead to affiliations between schools in the U.S. and schools in the NEA region.

• Participants from each country should come from the same schools or set of schools (districts) so that direct linkages on both sides are facilitated and encouraged by the program.

• An appreciation for the ways in which diverse populations can interact productively in the secondary school setting and work collaboratively to develop innovative responses to scientific and mathematics challenges. U.S. program presentations should showcase teaching math, science, and technology at the secondary level, special/accelerated programs and/or schools in the math, science, and technology disciplines, programs to attract students to these disciplines (especially girls), relevant after school programs, student job-shadowing programs, the roles of parents in schools, and how secondary schools build support and relationships with local science/technology businesses.

• Enhanced leadership capacity among the NEA educators that will enable participants to initiate and support activities in their home schools and classrooms.

• Create the foundation for collaborative partnerships among classrooms, through virtual or other exchanges.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 15 to 20 secondary school teachers and administrators from overseas and 15 to 20 from the U.S. to take part in the program. To recruit effectively, the grantee organization must have affiliate offices in one or more NEA countries.

(2) The recipient of this grant will be responsible for building and executing a one to two week study tour for American educators in the NEA region and a two to three week study tour program in the United States for foreign educators.

(3) Develop enhancement activities and development opportunities that reinforce program goals after the participants' return to their home country. Grantee will be responsible for establishing electronic communications/on-line projects or other methods of continuing communication and developing collaborative projects between participants and their classrooms. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. A merit-based competitive selection of American secondary school educators and administrators to participate in the overseas program is done.

2. A one to two week program is developed where the U.S. participants travel overseas. This should be done while schools in the host country(ies) are in session. While overseas, the U.S. participants will meet with and be hosted by foreign participants (and their schools) who have also been selected through an open merit-based competitive process. Programming should include time in active classrooms with students and presentation opportunities for the American participants in foreign schools/classrooms.

3. During an interim period, educators are in contact through active electronic communications and web-based programs.

4. A two to three week program is developed where the foreign participants travel to the U.S. This should be done while schools in the U.S. are in session. While in the U.S., the foreign participants will be hosted by U.S. participants (and their schools) whom they met in their program overseas. Programming should include time in active classrooms and at appropriate extracurricular sites with students and presentation opportunities for the foreign participants in American schools/classrooms.

5. Enrichment activities are developed that could include support materials translated into the native language, small grants for collaborative projects designed to expand and sustain the exchange experience, continuation of web/electronic activities, and other activities are done.

REGION: South Central Asia (SCA):

SCA: Secondary School Linkages.

Program Contact: Brent Beemer, tel: (202) 453–8147, e-mail: *BeemerBT@state.gov.*

Project Goals: ECA seeks program proposals that will help develop institutional (and personal) linkages between secondary schools in the United States and partner institutions in Turkmenistan or Pakistan. ECA will support creative programs that will link secondary school teachers and administrators from the U.S. and Turkmenistan or Pakistan in programming designed to explore each other's systems, schools, approaches to education, and study how their profession is engaging the successor generations in both countries.

Audience: Secondary school teachers and administrators. Active parents involved with parent/teacher organizations.

Eligible Countries: Turkmenistan, Pakistan (Single-Country Projects Only).

Successful programs will achieve the following:

• An understanding of issues related to the secondary school system in both countries.

• Develop opportunities for personal relationships to develop among the participants and longer-term affiliations between schools in the U.S. and schools in Turkmenistan or Pakistan to take root. Participants from both countries in the program should come from the same schools or set of schools (districts) so that direct linkages on both sides are facilitated and encouraged by the program.

• An appreciation for American governmental and legal structures, and a better understanding of the diversity of American society and how that affects the secondary school educational system. Program content should include presentations on the current American experience with integrating various immigrant citizens into the educational system, education of students with special needs, after school programs, student service/volunteer programs, the roles of parents in schools, and how secondary schools build support among local communities.

• An enhanced leadership capacity among the foreign educators that will enable participants to initiate and support activities in their home schools and classrooms.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 15 to 20 secondary school teachers and administrators from Turkmenistan or Pakistan and 15 to 20 from the U.S. to take part in the program. Partnering with a Turkmenistan-based or Pakistan-based organization or institution or having affiliate offices based there is required.

(2) The recipient of this grant will be responsible for building and executing a one to two week study tour for American educators overseas and a two to three week study tour program in the United States for foreign educators.

(3) Develop enhancement activities and development opportunities that reinforce program goals after the participants' return to their home country. Grantee will be responsible for establishing electronic communications/on-line projects or other methods of continuing communications between participants. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. A merit-based competitive selection of American secondary school educators and administrators to participate in the Turkmenistan-based or Pakistan-based program is conducted.

2. A one to two week program is developed where the U.S. participants travel to Turkmenistan or Pakistan. This should be done while schools in Turkmenistan or Pakistan are in session. While overseas, the U.S. participants will meet with and be hosted by foreign participants (and their schools) who have also been selected through an open merit-based competitive process. Programming should include time in active classrooms with students and presentation opportunities for the American participants in overseas schools/classrooms.

3. During an interim period, educators are in contact through active electronic communications and web-based programs.

4. A two to three week program is developed where the foreign participants travel to the U.S. This should be done while schools in the U.S. are in session. While in the U.S, the foreign participants will be hosted by U.S. participants (and their schools) whom they met in their program in Turkmenistan or Pakistan. Programming should include time in active classrooms with students and presentation opportunities for the foreign participants in American schools/classrooms.

5. Enrichment activities are developed that could include support materials translated into the native language, small grants for projects designed to expand and sustain the exchange experience, continuation of web/electronic activities, and other activities.

SCA: Outreach and Integration of Marginalized Populations in Sri Lanka.

Program Contact: Brent Beemer, tel: (202) 453–8147, e-mail: *BeemerBT@state.gov.*

Project Goals: ECA seeks programs that will engage community leaders, educators, youth influencers, journalists, and community-based organizations in examination of programs and practices to engage underserved or disengaged segments of the Sri Lankan society. This would include strengthening outreach to youth, as well as support for minority rights for the Sinhalese Muslim population, especially at the local level. This program would examine issues related to the integration of marginalized populations into a modern democratic society, including integration in the political system, economic opportunity, freedom of expression, access to education, and practice of an open social/cultural life. A specific concentration of programming on minority youth populations and the special needs/challenges they face in modern society is encouraged. Programming should include a study of U.S. government and legal structures, an understanding of the diversity of American society and efforts over the nation's history to increase tolerance and respect for others with differing views and beliefs. Program content will include an overview of the range of historical and current American experience with integrating various immigrant and minority citizens, examination of what has worked well and what has not, and analysis of the range of actors including government, NGOs, religious organizations, immigrant organizations, educational institutions, and the role of the media and public who are involved in this these issues.

Audience: Participants in the program should include representatives of non-governmental organizations, community leaders, educators, youth influencers, religious leaders, and journalists from minority communities.

Eligible Country: Sri Lanka.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 15 to 20 individuals throughout the target country. Program should be designed for two groups to travel to the U.S. An in-country partnering organization (based in Sri Lanka) is required.

(2) In addition to identifying in-country partner and screening, selecting, and preparing participants prior to departure for the United States, the recipient of this grant will be responsible for building and executing a three to four week study tour and training program in the United States.

(3) Conducting an in-country workshop(s) to examine the process of integration of marginalized populations in different societies and developing strategies to address these issues. The workshop(s) should be designed to engage a broad audience, not just program participants.

(4) The development of enhancement activities and development opportunities that reinforce program goals after the participants' return to their home country. An essential follow-on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. The U.S. grantee and in-country partner identify Sinhalese citizens to participate in the U.S.-based program. Then a three to four week U.S. program would occur that includes an orientation, study tour/site visits; possible short-term internships/work shadowing opportunities; hands on training/training-of-trainers; professional development; and the development of action plans.

2. A Sri Lanka-based workshop(s) for a broad audience to examine the status of minority communities. Participants in U.S. program help design the seminar and serve as co-presenters.

3. Enrichment activities would be developed that could include having support materials translated into the local language, small grants for projects designed to expand the exchange experience, and other activities.

REGION: Western Hemisphere (WHA):

WHA: Creating Economic Growth to Fight Poverty and Strengthen Democracy.

Program Contact: Laverne Johnson, tel: (202) 453–8160, e-mail: *JohnsonLV@state.gov.*

Project Goals: ECA seeks proposals designed to promote local grassroots economic growth and prosperity among emerging youth leaders from the indigenous and Afro-Latino communities by sharing practical methods to achieve this goal and to develop community leadership skills as a means to strengthen democracy. To increase understanding within the community of the linkage between entrepreneurial activity and free markets as well as the importance of transparency and accountability in business and government.

Audience: Young entrepreneurs, media representatives, community leaders, and officials from governmental and non-governmental organizations that either service or come from the indigenous and Afro-Latino communities of the Hemisphere with a special emphasis on women.

Eligible Countries: (Single-country and multiple-country projects accepted) Bolivia, Brazil, Colombia, Ecuador, Mexico, Nicaragua, Peru, and Venezuela.

Successful programs will achieve the following:

- Educate young men and women in entrepreneurial thinking and business leadership skills to empower them to engage in business creation.
- Improve among participants an understanding of the role communication plays in creating the conditions necessary for a free market economy.
- A better understanding of the roles of the private sector, and to a lesser extent, public sector who shape the local business environment.
- An appreciation of the role of the individual entrepreneur in creating economic growth.
- Enhance appreciation for American business practices and the role of the individual in creating growth through grassroots-focused entrepreneurial efforts.
- Establish a structured interaction among American and Hemisphere participants designed to develop enduring professional ties.
- Expand leadership capacity enabling participants to initiate and support activities in their home countries that focus on development and community service.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Recruit and select approximately 30 individuals from the business associations, banking and regulatory agencies and print media. The delegation should include individual business owners and individuals who report on business from diverse regions of the participating country. Program should be designed for two groups of 15 to travel to the U.S. for not less than ten days. For this phase of the program, partnering with organizations based in the proposed host-country is required.

(2) In addition to identifying in-country partner and screening, selecting, and preparing participants prior to departure for the United States, the grantee will be responsible for building and executing a four to six week residency program in the United States for approximately twelve additional Hemisphere participants.

(3) The final part of the program will be conducting enhancement activities and leadership development opportunities that reinforce program goals after all participants' return to their home country. An essential follow on component will be a longitudinal assessment of the achievements of the program.

Possible Program Model:

1. Selected participants invited to attend in-country workshops (presented by the U.S. grantee and in-country partner) that focus on effective, practical methods of stimulating entrepreneurial skills and support free market structures in the countries listed in this announcement.
2. Key members of the in-country workshops invited to U.S. for business facilitation or mentoring to promote innovation and networking skills. Develop action plans to promote entrepreneurial skills and free markets upon return home.
3. Upon return, participants implement business action plans with guidance from U.S. mentors utilizing email and other direct communication.
4. U.S. mentors travel to country to evaluate implementation of action plan and offer assistance.

III. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2008, pending availability.

Approximate Total Funding: $5,000,000.

Approximate Number of Awards: 20.

Approximate Average Award: $250,000 (Please Note: For the Legislative Education and Practice (LEAP) program outlined under the European Section of this document, the Office anticipates awarding one grant for approximately $400,000. It is anticipated that all other awards made under this competition will average approximately $300,000.)

Ceiling of Award Range: $350,000.

Anticipated Award Date: Pending availability of funds, September 1, 2008.

Anticipated Project Completion Date: September 30, 2010.

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a.) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

(b.) Any one organization is limited to submitting no more than four proposals in this entire competition. If any one organization submits more than four, then all submitted proposals will be deemed ineligible in this competition.

IV. Application and Submission Information:

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Office of Citizen Exchanges, ECA/PE/C, Room 220, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, (202) 453–8174, *GustafsonDP@State.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C–08–01 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Program Specialist David Gustafson and refer to the Funding Opportunity Number ECA/PE/C–08–01 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov website at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Budget requests may not exceed $350,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. The Bureau reserves the right to increase or decrease awards to meet the overall needs of the program.

IV.3e.2. Allowable costs for the program include the following:

1. Travel. International and domestic airfare; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. Domestic per diem rates may be accessed at: *http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&channelId=-15943&ooid=16365&contentId=17943&pageTypeId=8203&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=MTT.*

ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. Foreign per diem rates can be accessed at: *http://aoprals.state.gov/content.asp?content_id=184&menu_id=78.*

3. Interpreters. For U.S.-based activities, ECA strongly encourages applicants to hire their own locally based interpreters. However, applicants may ask ECA to assign State Department interpreters. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both ''lodging'' and ''M&IE'') and ''home-program-home'' transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. Book and Cultural Allowances. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

6. Room rental. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

7. Materials. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support

should be acknowledged on all materials developed with its funding.

8. Equipment. Applicants may propose to use grant funds to purchase equipment, such as computers and printers; these costs should be justified in the budget narrative. Costs for furniture are not allowed.

9. Working meal. Normally, no more than one working meal may be provided during the program. Per capita costs may not exceed $15–$25 for lunch and $20–$35 for dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a budget, interpreters should be considered ''participants.''

10. Return travel allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

11. Health Insurance. Foreign participants will be covered during their participation in the program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE), for which the grantee must enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. Wire transfer fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

13. In-country travel costs for visa processing purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

14. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: February 15, 2008.

Reference Number: ECA/PE/C–08–01.

Methods of Submission: Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 8 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE–08–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its(their) review.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*). Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3f.3. Applicants may not submit proposals that address more than one region or that include countries not eligible under a specific theme designated in the RFGP. Proposals that do so will be declared technically ineligible and will receive no further consideration in the review process. For the purposes of this competition, eligible regions are Africa, East Asia, Europe, the Near East, North Africa, South Central Asia, and the Western Hemisphere.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Planning and Ability to Achieve Objectives: Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described. A discussion of how the applicant intends to address language issues should be included, if needed.

2. Institutional Capacity: Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards-U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

3. Cost Effectiveness and Cost Sharing: Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive (see IV.3e.2 #14 for clarification on this). Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

4. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section, Item IV.3d.2, above for additional guidance.

5. Post-Grant Activities: Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

6. Program Monitoring and Evaluation: Proposals should include a detailed plan to monitor and evaluate the program. Program objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, etc) in Tab E. Successful applicants (grantee institutions) will be expected to submit a report after each program component concludes or on a quarterly basis, whichever is less frequent. The Bureau also requires that grantee institutions submit a final narrative and financial report no more than 90 days after the expiration of a grant.

VI. Award Administration Information

VI.1a. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

For assistance awards involving the Palestinian Authority: All awards made under this competition must be executed according to all relevant laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Recipients must consult with the Public Affairs Section in Jerusalem prior to submission of proposal.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact Thomas Johnston, Tel. (202) 453–8162;

e-mail: *JohnstonTJ@state.gov* for additional information.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''
Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''
OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.
OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.
OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.
OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one electronic copy of the following reports:

1. Quarterly program and financial reports for the duration of the program.
2. A final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Optional Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three weeks prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Brent Beemer, Office of Citizen Exchanges, ECA/PE/C, Room 220, ECA/PE/C–08–01, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202–453–8147; *BeemerBT@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C–08–01. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: November 13, 2007.

C. Miller Crouch,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E7–22659 Filed 11–19–07; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Public Hearing and Commission Meeting.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting beginning at 1:30 p.m. on December 5, 2007 in Lancaster, Pennsylvania. At the public hearing, the Commission will consider: (1) The approval of certain water resources projects, (2) enforcement actions involving three projects, (3) consideration of a request for an administrative hearing, (4) extension of two emergency water withdrawal certificates, and (5) revision of the Commission's current project fee schedule. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: December 5, 2007.

ADDRESSES: Woods Conference Room, Alumni Sports and Fitness Complex, Franklin & Marshall College, 929 Harrisburg Pike, Lancaster, Pa. See **SUPPLEMENTARY INFORMATION** section for mailing and electronic mailing addresses for submission of written comments.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423; ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Deborah J. Dickey, Secretary to the Commission, telephone: (717) 238–0423, ext. 301; fax: (717) 238–2436; e-mail: *ddickey@srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes the following items on the agenda: (1) Special recognitions for Pennsylvania Senator Noah Wenger and New York Alternate Commissioner Scott Foti, (2) a report on the present hydrologic conditions of the basin, (3) adoption of a final rulemaking for agricultural consumptive water use, (4) approval of certain low flow augmentation for agricultural consumptive use mitigation, (5) revision of aquifer test standards, (6) approval of the FY–07 independent audit, and (7) various contract and grant approvals.

Public Hearing—Projects Scheduled for Action

1. *Project Sponsor and Facility:* Village of Waverly (Well 4), Tioga County, N.Y. Modification of groundwater approval (Docket No. 20030207).

2. *Project Sponsor and Facility:* Snow Mountain LLC, Scranton City, Lackawanna County, Pa. Application to transfer approvals for surface water withdrawal of 7.300 mgd and consumptive water use of up to 1.600 mgd (Docket No. 20030405).

3. *Project Sponsor:* Graymont (PA) Inc. Project Facility: Pleasant Gap Facility, Spring Township, Centre County, Pa. Modification of consumptive water use approval (Docket No. 20050306).

4. *Project Sponsor:* Glenn O. Hawbaker, Inc. Project Facility: Pleasant Gap Facility, Spring Township, Centre County, Pa. Modification of consumptive water use approval (Docket No. 20050307).

5. *Project Sponsor:* Parkwood Resources, Inc. Project Facility: Cherry Tree Mine, Burnside Township, Indiana and Clearfield Counties, Pa. Application for consumptive water use of up to 0.225 mgd.

6. *Project Sponsor and Facility:* Mountainview Thoroughbred Racing Association, Inc., East Hanover Township, Dauphin County, Pa. Modification of consumptive water use approval (Docket No. 20020819).

7. *Project Sponsor and Facility:* King Drive Corp., Middle Paxton Township, Dauphin County, Pa. Modification of consumptive water use approval (Docket No. 20020615).

8. *Project Sponsor and Facility:* York Plant Holding LLC, Springettsbury Township, York County, Pa. Application for consumptive water use of up to 0.575 mgd.

Public Hearing—Projects Scheduled for Enforcement Actions

1. *Project Sponsor and Facility:* Cooperstown Dreams Park, Inc. (Docket No. 20060602), Town of Hartwick, Otsego County, N.Y.

2. *Project Sponsor:* Sand Springs Development Corp. (Docket No. 20030406). Project Facility: Sand Springs Golf Community, Butler Township, Luzerne County, Pa.

3. *Project Sponsor and Facility:* BC Natural Chicken, LLC (Docket No. 20040305), Bethel Township, Lebanon County, Pa.

Public Hearing—Request for Administrative Hearing

1. Project Sponsor: PPL Susquehanna, LLC. *Project Facility:* Susquehanna Steam Electric Station, Salem Township, Luzerne County, Pa. (Docket No. 19950301).

Public Hearing—Extension of Emergency Water Withdrawal Certificates

1. Project Sponsor and Facility: City of Lock Haven, Wayne Township, Clinton County, Pa.

2. Project Sponsor and Facility: Houtzdale Municipal Authority (Docket No. 19950101), Rush Township, Centre County, Pa.

Public Hearing—Fee Schedule Revision

Revise the project fee schedule to include escalations for the Consumer Price Index and the addition of a fee category for withdrawals less than 100,000 gpd.

Opportunity To Appear and Comment

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391, or submitted electronically to Richard A. Cairo, General Counsel, e-mail: *rcairo@srbc.net* or Deborah J. Dickey, Secretary to the Commission, e-mail: *ddickey@srbc.net.* Comments mailed or electronically submitted must be received prior to December 5, 2007 to be considered.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: November 9, 2007.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E7–22648 Filed 11–19–07; 8:45 am]

BILLING CODE 7040–01–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Alice D. Witt, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6832. (SC: 000YRFB).

Comments should be sent to the Agency Clearance Officer no later than *January 22, 2008.*

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission; proposal to extend without revision a currently approved collection of information (OMB control number 3316–0016).

Title of Information Collection: Farmer Questionnaire-Vicinity of Nuclear Power Plants.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households, and farms.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 300.

Estimated Total Annual Burden Hours: 150.

Estimated Average Burden Hours Per Response: .5.

Need for and Use of Information: This survey is used to locate, for monitoring purposes, rural residents, home gardens, and milk animals within a five mile radius of a nuclear power plant. The monitoring program is a mandatory requirement of the Nuclear Regulatory Commission set out in the technical specifications when the plants were licensed.

Steven A. Anderson,

Senior Manager, IT Planning & Governance, Information Services.

[FR Doc. E7–22604 Filed 11–19–07; 8:45 am]

BILLING CODE 8120–08–P

Corrections

Federal Register

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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 COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 070105004–7050–01]

RIN 0694 AD95

December 2006 Wassenaar Arrangement Plenary Agreement Implementation: Categories 1, 2, 3, 5 Part I, 6, 7, 8, and 9 of the Commerce Control List; Wassenaar Reporting Requirements; Definitions; and Statement of Understanding on Source Code

Correction

In rule document E7–21247 beginning on page 62524 in the issue of Monday, November 5, 2007, make the following corrections:

PART 774—[CORRECTED]

1. On page 62545, in Supplement No. 1 to Part 774 (the Commerce Control List), Category 6 Sensors, Export Control Classification Number (ECCN) 6A005, in the second column, in paragraph b.6.a., in the first line, ‘‘µs’’ should read ‘‘ns’’.

2. On page 62547, in Supplement No. 1 to Part 774 (the Commerce Control List), Category 6 Sensors, Export Control Classification Number (ECCN) 6A995, in the second column, the second occurrence of paragraph ‘‘d.1.a.’’ should read ‘‘d.1.a..1.’’.

3. On the same page, in the same Supplement, in the same Category, in the same ECCN, in the same column, paragraph ‘‘d.1.a.2.1.’’ should read, ‘‘d.1.a..2.’’.

[FR Doc. Z7–21247 Filed 11–19–07; 8:45 am]

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Federal Register

Tuesday,

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Part II

Department of Homeland Security

6 CFR Part 27

Appendix to Chemical Facility Anti-Terrorism Standards; Final Rule

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 27

[DHS–2006–0073]

RIN 1601–AA41

Appendix to Chemical Facility Anti-Terrorism Standards

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This final rule revises the list of chemicals of interest, or COI, which the Department of Homeland Security (DHS or the Department) included as Appendix A to the Chemical Facility Anti-Terrorism Standards Interim Final Rule. Appendix A lists chemicals of interest and screening threshold quantities, or STQs. Any facility that possesses (or later comes into possession of) the listed chemicals in quantities that meet or exceed the STQ for any applicable security issue must complete and submit a Top-Screen. This will assist the Department in determining whether a facility presents a high level of security risk.

In this final rule, DHS, among other things: (i) Adjusts the STQs for certain COI; (ii) defines the specific security issue or issues implicated by each chemical of interest, and in some cases, establishes different STQs for COI based upon the security issue presented; and (iii) adds provisions that instruct facilities on how to calculate the quantities of COI that they have in their possession.

These refinements to Appendix A will assist the Department in more precisely identifying facilities that may be designated as high risk, while reducing the burden on facilities that possess chemicals in smaller amounts.

EFFECTIVE DATES: The effective date of Appendix A to part 27, as added on April 9, 2007 (72 FR 17688) and revised by this rule is November 20, 2007. Additionally, the regulations published in this document are effective November 20, 2007. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 20, 2007.

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SUPPLEMENTARY INFORMATION: Note that for brevity, all references to CFR parts will be to parts in Title 6 of the Code of Federal Regulations (6 CFR), unless otherwise noted.

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Abbreviations and Terms Used in This Document

ACG—A Commercial Grade
AN—Ammonium Nitrate
APA—A Placarded Amount
ASP—Alternative Security Program
CAS—Chemical Abstract Service
CGA—Compressed Gas Association
COI—Chemicals of Interest
CSAC—Chemical Security Analysis Center
CSAT—Chemical Security Assessment Tool
CUM 100g—Cumulative STQ of 100 grams for Designated Chemical Weapons
CVI—Chemical-terrorism Vulnerability Information
CW—Chemical Weapons
CWC—Chemical Weapons Convention
CWP—Chemical Weapons Precursors
DOT—U.S. Department of Transportation
EPA—Environmental Protection Agency
EXP—Explosives
FBI—Federal Bureau of Investigation
IED—Improvised Explosive Device
IEDP—Improvised Explosive Device Precursors
LNG—Liquefied Natural Gas
NFPA—National Fire Protection Association
NOS—Not Otherwise Specified
NPGA—National Propane Gas Association
RMP—EPA's Risk Management Program
SVA—Security Vulnerability Assessment
SSP—Site Security Plan
STQ—Screening Threshold Quantity
TQ—Threshold Quantity
TSA—Transportation Security Administration
VBIED—Vehicle-Borne Improvised Explosive Device
WME—Weapon of Mass Effect

I. Background

On October 4, 2006, President George W. Bush signed the Department of Homeland Security Appropriations Act of 2007 (the Act), which provided the Department of Homeland Security with the authority to regulate the security of high risk chemical facilities. *See* Pub. L. 109–295, § 550. Section 550 required the Secretary of Homeland Security to promulgate interim final regulations ''establishing risk-based performance standards for security of chemical facilities'' by April 4, 2007 and specified that the regulations ''shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of security risk.'' *Id*.

Pursuant to Section 550, on December 28, 2006, the Department issued an Advance Notice of Rulemaking (Advance Notice), which discussed a range of regulatory and implementation issues. *See* 71 FR 78276. By directing the Secretary to issue ''interim final regulations,'' Congress authorized the Secretary to proceed without the traditional notice and comment required by the Administrative Procedure Act. *See* 71 FR 78276, 78277. The Department, however, saw great benefit in soliciting comments on as much of the program as was practicable in the short timeframe permitted under the statute and therefore voluntarily sought comment on the Advance Notice, including a range of significant programmatic issues and regulatory text.

On April 9, 2007, the Department issued an Interim Final Rule (IFR), which responded to the comments to the Advance Notice and established a new part 27 to Title 6 of the Code of Federal Regulations. *See* 72 FR 17688. Part 27 establishes risk-based performance standards for the security of our Nation's chemical facilities. The rule requires covered chemical facilities to prepare Security Vulnerability Assessments (SVAs) that identify facility security vulnerabilities. The rule also requires covered chemical facilities to develop and implement Site Security Plans (SSPs) that identify measures that satisfy the identified risk-based performance standards. It also allows certain covered chemical facilities, in specified circumstances, to submit Alternate Security Programs (ASPs) in lieu of an SVA, SSP, or both. In addition, the rule contains associated provisions addressing inspections and audits, recordkeeping, and the protection of information that constitutes Chemical-terrorism Vulnerability Information (CVI). Finally, the rule provides the Department with authority to compel compliance through the issuance of orders, including orders assessing civil penalties and orders to cease operations.

The IFR, except for Appendix A to part 27, went into effect on June 8, 2007. Appendix A contained a tentative list of Chemicals of Interest (COI). DHS accepted comments on the tentative list of chemicals in Appendix A (hereafter referred to as proposed Appendix A or proposed appendix) for 30 days until May 9, 2007. With this final rule, the Department responds to those comments and provides a final list of Chemicals of Interest in Appendix A. The same principles that guided the Department during the development of the proposed list have guided the Department during the development of this revised list, and those main principles are summarized here. First, DHS did not use any single, existing list as its sole source or classify all chemicals on any existing list in a particular way. Instead, DHS used multiple sources, so that it could obtain a more complete picture of the universe of facilities that may qualify as high risk. Second, in identifying the chemicals and STQs for chemicals, the Department sought to strike an appropriate balance: Sufficiently inclusive of chemicals in quantities that might present a high level of risk under the statute without being overly inclusive and thereby capturing facilities that are unlikely to present a high level of risk. Third, the Department has identified chemicals by considering security issue(s) associated with a chemical. The Department has identified the COI for preliminary screening based on the belief that these chemicals, if released, stolen or diverted, and/or contaminated, have the potential to create significant human life and/or health consequences.

II. The Final Rule: The Revised List of Chemicals

A. Overall Approach to Appendix A

While the universe of chemicals in Appendix A has remained substantially the same, the Department has re-structured the format of the appendix and has more clearly defined the provisions associated with these chemicals. The Department has included a considerable amount of additional information in the appendix as well as some new provisions to the regulatory text. The changes that the Department has made have come directly from comments or otherwise logically resulted from comments where DHS agreed that the comments raised valid points and were within the scope of the proposed appendix.

The proposed appendix listed only a chemical and a corresponding Chemical Abstract Service (CAS) number,[1] however the final appendix includes that information as well as a new column with commonly-used synonyms for certain chemicals. The final appendix also adds several new columns that identify the security issue(s) associated with each chemical of interest (COI).[2] In addition, the Department has assigned an STQ and minimum concentration provision to each chemical of interest. The final appendix, unlike the proposed appendix, does not trigger reporting obligations based on possession of an STQ of ''any amount.'' [3]

In the final appendix, the Department has listed the security issue(s) associated with each chemical of interest. Although these same security issues drove the Department's selection of chemicals for inclusion in the proposed appendix, the Department did not list (in the proposed appendix) the security issue(s) for each particular chemical. This additional information provides guidance to regulated entities, so that they better understand how to use the appendix, and it explains the Department's rationale(s) for including these chemicals, at these STQs, on the list.

The seven columns on the far right of the appendix contain the chemical facility security issues that the Department has identified for this appendix. There are three main categories of security issues: Release, theft/diversion, and sabotage/contamination.[4] Two categories have three subcategories each. The ''release'' category has three subcategories: (1) Release-Toxic: Chemicals with the potential to create a toxic cloud that would affect populations within and beyond the facility, if intentionally released; (2) Release-Flammables: chemicals with the potential to create a vapor cloud explosion that would affect populations within and beyond the facility, if intentionally released; and (3) Release-Explosives: chemicals with the potential to affect populations within and beyond the facility if intentionally detonated. The ''theft and diversion'' category also has three subcategories: (1) Theft/Diversion-Chemical Weapons (CW)/Chemical Weapons Precursors (CWP): chemicals that could be stolen or diverted and used as CW or easily converted into CW; (2) Theft/Diversion-Weapons of Mass Effect (WME): chemicals that could be stolen or diverted and used directly as WME; and (3) Theft/Diversion-Explosives (EXP)/Improvised Explosive Device Precursors (IEDP): chemicals that could be stolen or diverted and used in explosives or IEDs. The third category, ''sabotage/contamination,'' refers to those chemicals that, if mixed with other readily-available materials, have the potential to create significant adverse consequences for human life or health.

The Department has established baseline STQs for the chemicals of interest for each security issue. (DHS discusses the baselines in this preamble and also summarizes the general rules in Table 1: ''Summary of General Rules by Security Issue'' at the end of this section). DHS has set the STQ for each chemical of interest at the baseline amount for that chemical's security issue(s). Where necessary, the Department has identified a few exceptions. Most notably, DHS has developed a specialized approach for propane, chlorine, and ammonium nitrate.

Each chemical in Appendix A presents at least one security issue, and

[1] CAS numbers are unique identifiers for chemical substances.

[2] The Department has added definitions for Chemical of Interest (COI) and Security Issue to § 27.105 ''Definitions.''

[3] *See* footnote 64.

[4] As noted in the IFR and consistent with the definition of ''security issue'' in § 27.105, the Department recognizes one additional security issue—critical to government mission and national economy. (DHS has added a definition of security issue in this final rule at § 27.105.) The loss or interruption in production of certain chemicals, materials, or facilities could create significant adverse consequences for national security, the national or regional economy, and/or the ability of the government to deliver essential services. The Department plans to assess currently-available information and to collect new information (e.g., through the Top-Screen process) as a means of identifying facilities responsible for these types of chemicals. At this time, DHS is not including any chemicals in the appendix based on this security issue, though it may do so in the future.

some chemicals present multiple security issues. Where there are multiple issues associated with a chemical, a facility must complete and submit a Top-Screen if it meets or exceeds the STQ for any of the applicable security issues. For example, there are two security issues associated with arsenic trichloride: release-toxic and theft/diversion-CW/CWP. In the Security Issue columns of the appendix, there is a mark in the box for release-toxic and for theft/diversion-CW/CWP, and there is a STQ (and minimum concentration) listed under the Release column and under the Theft column. If the facility meets or exceeds the STQ listed in either the Release column or the Theft column (using the appropriate calculation provisions discussed below), the facility must complete and submit a Top-Screen. The Department has revised the regulatory text in § 27.200(b)(2) and § 27.210(a)(1)(i) to reflect this change.

The Department will periodically update the list of chemicals in Appendix A and will do so subject to notice and comment. The Department may add or remove chemicals, or categories of chemicals, or may change STQs based on new or additional information.

In revising Appendix A, the Department has found it necessary to revise the regulatory text, clarifying how facilities should use the appendix. The Department added § 27.203, which instructs facilities on how to calculate the STQ for a given chemical and § 27.204, which addresses mixtures. In this section of the preamble, DHS discusses provisions that are general or that apply to multiple security issues. DHS discusses provisions related to specific security issues in section II(C).

Section 27.203(a) provides specific exclusions from the calculation requirements that apply to chemicals of interest in all security issue categories. Facilities need not count chemicals of interest covered by these exclusions, because chemicals in such circumstances or forms are unlikely to contribute to the potential consequences of a successful attack. DHS has adopted several of these exclusions from the Environmental Protection Agency's (EPA) Risk Management Program (RMP) regulation. Sections 27.203(a)(1)–(5), (6), and (8) track the EPA exemptions in 40 CFR 68.115(b)(4)(i)–(iv), 68.115(b)(3), and 68.115(b)(2)(iii), respectively. The concepts are the same, though DHS has adjusted the language to make it consistent with the language in part 27 (e.g., whereas EPA considers TQs present at a ''stationary source,'' DHS considers STQs at a ''facility''). Note that EPA applies these exemptions to release chemicals (i.e., those which it regulates under RMP), while DHS applies these exclusions to all part 27 chemicals of interest (i.e., to all chemicals associated with the security issues of release, theft/diversion, and sabotage/contamination).

DHS has formulated one other exclusion specifically for this regulation. In § 27.203(a)(7), DHS exempts chemicals of interest in solid waste (including hazardous waste) regulated under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 *et seq.*) DHS does not believe that it is necessary for facilities to count COI in RCRA-regulated solid waste toward their STQ, because the Department does not believe that this waste is a likely target of a terrorist attack or contains COI that are likely sources of terrorist uses. As stated in the regulatory text, though, this exclusion does not apply to waste covered by 40 CFR 261.33, ''Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.'' This type of waste can include virtually pure chemicals (including off-specification products that may merely be inconsistent with a customer's specifications) that have been discarded. DHS thinks it is important for facilities to include this waste in the STQ calculation, because this waste is a potential source of COI that would be just as attractive to a terrorist as the chemical product itself.

Paragraph (b) of § 27.203 addresses STQ calculations related to release chemicals. Section 27.203(b)(1) provides instructions concerning the substances that facilities shall include when determining whether they possess quantities of a release chemical that meet or exceed the STQ. Proposed Appendix A did not contain the instructions enumerated in § 27.203(b)(1), but further consideration and a review of the comments caused DHS to provide these instructions. Pursuant to § 27.203(b)(1)(i), facilities must include chemicals in a vessel, which, pursuant to 40 CFR 68.3, ''means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.'' Facilities must also include chemicals of interest stored in magazines, as defined in 27 CFR 555.11. Pursuant to that Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) definition, a magazine is ''any building or structure, other than an explosives manufacturing building used for storage of explosive materials.'' In addition, facilities must include chemicals of interest in underground storage facilities. For purposes of part 27, an underground storage facility refers to a below-ground storage location for chemicals of interest or mixtures of chemicals of interest (e.g., petroleum-based materials) that are placed in the storage location (until needed) after having been extracted from the ground and refined or processed. Such facilities include, but are not limited to, depleted reservoirs in oil and/or oil gas fields, aquifers, and salt cavern formations. DHS understands that certain products (e.g., propane, natural gas, petroleum) may be stored in these underground storage facilities, and DHS wants to ensure that facilities count this material toward the amount of their COI.

Pursuant to § 27.203(b)(1)(ii), facilities must count chemicals of interest in specified transportation containers toward the STQ amount for release chemicals. In using this terminology, DHS is referring to the same category of transportation containers that EPA refers to in its RMP regulation—that is, transportation containers used for storage not incident to transportation, including transportation containers connected to equipment at a facility for loading or unloading and transportation containers detached from the motive power that delivered the container to the facility. *See* 40 CFR 68.3 (containing a description of transportation containers within the definition of ''stationary source''). These transportation containers would include, for example, tank cars attached to processing units and tank cars detached from motive power that had delivered the tank car to the facility.

While the EPA RMP regulation at 40 CFR 68.3 does not specifically mention transportation containers detached from the motive power, EPA discusses such provision in its Final Rule titled ''List of Regulated Substances and Thresholds for Accidental Release Prevention; Amendments'' [5] and in its Frequently Asked Questions on the EPA Web site.[6] Part 27 (like EPA's RMP regulation) does not require facilities to include chemicals of interest in transportation when calculating their STQs. DHS adopts the EPA definition of transportation, and accordingly considers a container to be in transportation as long as it is attached to the motive power (e.g., truck or locomotive) that delivered it to the site. If the tank car is detached from the motive power, and therefore no longer in transportation, the facility must

[5] *See* 63 FR 640 (January 6, 1998).

[6] *See* FAQ II.C.2 on the EPA Web site at *http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/caa-faqs.htm.*

consider the contents of the tank car in calculating its STQ.

Pursuant to § 27.203(b)(1)(iii), facilities must also include chemicals of interest that are present as process intermediates, by-products, and incidental production materials. This means, for example, that a refinery must count toward the STQ for hydrogen sulfide the quantity of hydrogen sulfide produced as a by-product of any of its various processes. Or a facility should count toward the STQ for 37% hydrochloric acid the quantity of 37% hydrochloric acid produced from the absorption of hydrogen chloride gas into water and stored temporarily prior to subsequent dilution below the threshold concentration. DHS requires the inclusion of these items in calculating the STQ, because while they may not be present at all times, when present, they could be released and contribute to the consequences of an attack.

The remaining two subsections in § 27.203(b)(1) are items that EPA exempted, but which DHS believes are important to include in this regulatory program; they have the potential to create a significant offsite impact in the event of a successful attack. First, when calculating the amount of a chemical of interest, facilities must include chemicals in natural gas or liquefied natural gas (LNG) stored in ''peak shaving facilities.'' *See* § 27.203(b)(1)(iv). Companies typically store natural gas or LNG in peak shaving facilities when demand for product is low or slows. The natural gas or LNG is stored until it is used later during peak consumption periods. EPA excludes the chemicals in these peak shaving facilities by virtue of the fact that EPA considers them storage incident to transportation, and EPA does not subject that type of storage to its RMP regulation.[7] Within DHS, TSA is the lead agency for the security of pipeline transportation and of transportation-related facilities; however, such facilities (e.g., peak shaving facilities) may be required to provide information under part 27. TSA and the Chemical Security Compliance Division will work together to ensure that DHS efforts directed at pipelines are complementary.

Second, facilities must also include chemicals of interest in fuels when stored in above-ground tank farms, including tank farms that are part of pipeline systems. *See* § 27.203(b)(1)(v). This includes fuels with any one of the four National Fire Protection Association (NFPA) flammability hazard ratings and not just fuels with an NFPA flammability hazard rating of 4. EPA excludes these fuels by virtue of the provisions in its mixtures rule for regulated flammable substances. *See* 40 CFR 68.115(b)(2). These fuels also would have been excluded under DHS's flammable mixtures provisions (*see* § 27.204(a)(2) [8]) except that DHS specifically included these fuels through this provision here in § 27.203(b)(1)(v), because of concern that they could create significant human life or health consequences if an intentional attack by a terrorist were successful.

In § 27.203(c), DHS provides that facilities shall only count theft/diversion chemicals of interest that are in a transportation packaging. DHS has adopted the Department of Transportation (DOT) definition of packaging, which refers to ''a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of [DOT's Hazardous Materials Regulations].'' *See* 49 CFR 171.8. This includes, but is not limited to, cylinders, bulk bags, bottles inside or outside of a box, cargo tanks, and tank cars. DHS has focused the universe of theft/diversion chemicals of interest in this fashion, because the theft/diversion security issue revolves around portable and transportable amounts of certain chemicals. DHS is concerned about both the theft of portable amounts of these chemicals and the diversion of shipments of these chemicals.

The Department has also added § 27.204, which addresses mixtures. It provides a minimum concentration provision for each security issue. The Department included this provision in response to commenters, who requested guidance on how to treat mixtures of chemicals of interest. *See* § 27.204. A facility must count toward the STQ for a given chemical all quantities of that chemical that meet or exceed the listed minimum concentration amount. These minimum concentration provisions are derived from existing federal regulatory programs (including EPA's RMP program and the Department of Commerce's Chemical Weapons Convention (CWC)) Regulations, as well as from industry technical standards (*see, e.g.*, Standard for Classification of Toxic Gas Mixtures, CGA P–20–2003). The specific minimum concentration provision for each security issue is discussed in the sections below.

In calculating chemical amounts, facilities should consider the chemicals in their possession within the framework for each of the three separate and distinct security issues categories (release, theft/diversion, and sabotage/contamination). A facility must count each chemical of interest in its possession, using the relevant calculation provisions for each of the categories, and if the facility possesses an amount that meets or exceeds the STQ for any one of the categories (i.e., security issues), the facility must complete and submit a Top-Screen. To illustrate that point, the Department highlights sulfur dioxide, which is both a release-toxic (STQ: 5,000 pounds) and theft/diversion-WME (STQ: 500 pounds).

—Toward the release STQ of 5,000 pounds, a facility must count all quantities of sulfur dioxide in vessels and underground storage facilities; in transportation containers used for storage not incident to transportation, including storage containers connected to equipment at a facility for loading or unloading and storage containers detached from the motive power that delivered the container to the facility; and present as process intermediates, by-products, and material produced incidental to the production of a product if they exist at any given time.

—Toward the theft/diversion-WME STQ of 500 pounds, a facility must count all quantities of sulfur dioxide in a transportation packaging.

If the facility has 5,000 pounds or more of sulfur dioxide aggregated onsite in vessel(s), transportation packaging(s), etc. or 500 pounds or more of sulfur

[7] Under the RMP rule, EPA considers there to be a threshold quantity of a substance if it is present at a stationary source. 40 CFR 68.115(a). ''The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance * * *.'' 40 CFR 68.3. EPA ''considers the transportation exemption to include storage fields for natural gas where gas taken from pipelines is stored during non-peak periods, to be returned to the pipelines when needed.'' 63 FR 640, 642 (Jan. 6, 1998). Because EPA considers this type of storage incident to transportation, the type of storage is not subject to EPA's RMP rule.

[8] Section 27.204(a)(2) provides that ''except as provided in § 27.203(b)(1)(v) for fuels that are stored in aboveground tank farms (including farms that are part of pipeline systems), if a release-flammable chemical of interest is present in a mixture in a concentration equal to or greater than one percent (1%), and the mixture has a National Fire Protection Association (NFPA) flammability hazard rating of 1, 2, or 3, the facility shall count the entire weight of the mixture toward the STQ.'' Without the ''exception'' clause, DHS would have excluded these fuels by virtue of the fact that these fuels are mixtures that likely have NFPA flammability hazard ratings of 1, 2, and 3. Pursuant to § 27.204(a)(2), facilities need not count the entire amount of these mixtures (i.e., mixtures with COI present in a concentration equal to or greater than one percent (1%) and with a flammability hazard rating of 1, 2, or 3) toward the STQ.

dioxide in transportation packagings (or both), the facility must complete and submit a Top-Screen.

Facilities must consider each security issue framework independently. As a result, there may be chemicals of interest that a facility counts under more than one security issue framework. That is completely appropriate, as there is a different focus (and therefore distinct counting and mixtures rules) for each security issue. For example, with respect to sulfur dioxide, a facility will count toward its release STQ quantities of sulfur dioxide in a tank car when that tank car is connected to equipment at the facility for loading and unloading and when that tank car is detached from the motive power that delivered it to the facility (*see* § 27.203(b)(1)(ii)) and it will count toward its theft/diversion-WME STQ quantities of sulfur dioxide in tank cars (*see* § 27.203(c)). Under both frameworks (release and theft), the facility may, in fact, count the same sulfur dioxide. As there are separate purposes for each framework, however, this is appropriate. The theft-STQ is focused on preventing someone from stealing or diverting the shipment of sulfur dioxide in the tank car and weaponizing it. The release-STQ is focused on preventing someone from intentionally releasing a quantity of sulfur dioxide that could affect the population within and beyond the facility.

TABLE 1.—SUMMARY OF GENERAL RULES BY SECURITY ISSUE

Security issue	STQ [9]	COI to exclude	COI to include	Minimum concentration
Release—Toxic	500–20,000 lbs	27.203(a) 27.203(b)(2)	27.203(b)(1) 27.204(a)(1)	27.204(a)(1)
Release—Flammable	10,000 lbs	27.203(a) 27.203(b)(2) 27.203(b)(3)	27.203(b)(1) 27.204(a)(2)	27.204(a)(2)
Release—Explosive	5,000 lbs	27.203(a)	27.203(b)(1)	27.204(a)(3)
Theft/Diversion—CW/CWP	CUM 100 grams–220 lbs	27.203(a)	27.203(c)	27.204(b)(1)
Theft/Diversion—WME	15–500 lbs	27.203(a)	27.203(c)	27.204(b)(2)
Theft/Diversion—EXP/IEDP	100–400 lbs	27.203(a)	27.203(c)	27.204(b)(3)
Sabotage/Contamination	A Placarded Amount	27.203(a)	27.203(d)	27.204(c)

B. Effect of a Final Appendix A

Under Section 550, the Department has the authority to use its best judgment and all available information in determining whether a facility presents a high level of security risk. Appendix A will assist the Department in determining which facilities present a high level of security risk. In Appendix A, the Department has identified chemicals of interest (at specified STQs) that trigger preliminary screening requirements. If a facility possesses a chemical of interest at or above the STQ for any applicable security issue, the facility must complete and submit a Chemical Security Assessment Tool (CSAT) Top-Screen. The STQ is not the threshold for establishing whether a given facility is a high risk facility, but it is a threshold for determining whether the facility must complete and submit a Top-Screen.

Only after the Department gathers additional information through the Top-Screen process will the Department make a determination [10] as to whether a facility presents a high level of security risk and therefore must comply with the substantive requirements in part 27. Accordingly, the presence or amount of a particular chemical is not the sole factor in determining whether a facility presents a high level of security risk; it is not the only indicator of a facility's coverage under part 27.

Sections 27.200(b)(2) and 27.210 contain the requirements related to Appendix A, and those requirements are fully operative upon publication of this final rule in the **Federal Register**. Section 27.200(b)(2) requires facilities to complete and submit a Top-Screen if they possess any of the chemicals identified in Appendix A at or above the STQ for any applicable security issue. If a facility possesses even one of the chemicals of interest listed in Appendix A at or above the applicable STQ, the facility has an obligation to complete and submit a Top-Screen. Section 27.210(a)(1)(i) provides the initial submissions schedule for facilities that have to submit a Top-Screen pursuant to Appendix A.

Pursuant to § 27.210(a), the Department uses two methods to require facilities to undergo preliminary screening (i.e., complete and submit a Top-Screen). The first method, found in § 27.210(a)(1)(i), is linked to Appendix A. From the effective date of a final Appendix A (i.e., this final rule), facilities that possess any of the chemicals listed in Appendix A at or above the STQ for any applicable security issue will have 60 calendar days to complete and submit a Top-Screen to DHS. Facilities that later come into possession of such chemicals at or above the STQ for any applicable security issue will have to complete and submit a Top-Screen within 60 calendar days of coming into possession of such chemicals. *See* § 27.210(a)(1)(i). In addition, covered facilities [11] have an ongoing obligation to complete and update the Top-Screen as provided in § 27.210(d). Covered facilities that make material modifications to their operations or site must complete and submit a revised Top-Screen within 60 days of the material modification. *See* § 27.210(d).

The second method, found in § 27.210(a)(1)(ii), allows the Department to contact facilities independently of

[9] Specialized STQs apply to ammonium nitrate, chlorine, and propane.

[10] Based on the information the Department receives in accordance with § 27.200 and § 27.205 (including information submitted through the Top-Screen), the Department makes a preliminary determination as to a facility's placement in a risk-based tier. *See* § 27.220(a). Following review of a covered facility's Security Vulnerability Assessment (SVA), the Department makes a final determination as to a facility's placement in a risk-based tier. *See* § 27.220(b).

[11] As used herein, a ''covered facility'' (or ''covered chemical facility''), means ''a chemical facility determined by the Assistant Secretary to present high levels of security risk. * * *'' and differs from a ''chemical facility'' (or ''facility''), which refers to ''any establishment that possesses or plans to possess, at any relevant point in time, a quantity of a chemical substance determined by the Secretary to be potentially dangerous or that meets other risk-related criteria identified by the Department.'' *See* § 27.105. Although DHS will require many *facilities* to complete and submit a Top-Screen, DHS will only require *covered facilities* to develop a chemical facility security program (i.e., complete a SVA pursuant to § 27.215, develop and implement a SSP pursuant to § 27.225, etc.).

Appendix A. Facilities must complete and submit a Top-Screen if the Department notifies the facility to do so through a **Federal Register** notice or on an individual basis through written notification. The Department may choose to contact facilities in this manner based on new or additional information or based on intelligence information about terrorists' interest in certain chemicals or certain facilities. The Department will specify the time frame for these Top-Screen submissions in the written notification. Since the effective date of the IFR, the Department has used the second method (i.e., contacting certain facilities individually and directing them to complete the Top-Screen). With the publication of this final rule, both triggering requirements for completing the Top-Screen will be in effect.

C. Provisions by Security Issue

1. Release-Toxics and Release-Flammables

a. Chemicals

To identify the release chemicals for Appendix A, the Department looked to the list of substances in the EPA's RMP rule.[12] *See* Tables 1 and 2 to 40 CFR § 68.130 for release-toxics and Tables 3 and 4 to 40 CFR 68.130 for release-flammables. The Department had included all of the EPA RMP substances in proposed Appendix A,[13] and aside from the exceptions noted below, continues to do so in this final appendix. For release-toxics, the Department uses the same listing criteria, including the EPA acute toxicity criteria and vapor pressure cut-off, which can be found in EPA's final rule, ''List of Regulated Substances and Threshold for Accidental Release Prevention; requirements for Petitions Under Section 112(r) of the Clean Air Act as Amended.'' *See* 59 FR 4478, 4482 (January 31, 1994). EPA includes a toxic substance on its RMP list if the substance is an acute toxic that has vapor pressure high enough that the release could result in an offsite poisonous inhalation hazard.

In this final appendix, the Department has removed three release-toxic chemicals[14] that it had included in the proposed appendix. While these three toxic chemicals appear on EPA's RMP list, they do not meet the RMP listing criteria for vapor pressure. EPA included these three chemicals in their RMP list, because Congress specifically required their inclusion pursuant to § 7412(r)(3) of the Clean Air Act, 42 U.S.C. 7401 *et seq.*[15] Because these chemicals do not otherwise meet the RMP listing criteria for toxic chemicals, DHS has removed them from Appendix A.

For release-flammable chemicals, DHS also uses the same listing criteria as EPA does for release-flammable chemicals. EPA, and now DHS, identifies flammable gases and volatile flammable liquids based on the flash point and boiling point criteria that the NFPA uses for its highest flammability hazard ranking (Class IA). The criteria can be found in EPA's Final List Rule. *See* 59 FR 4478, 4480 (January 31, 1994).

b. STQ

DHS set the STQ for release-toxics at the same amount that EPA set the Threshold Quantity (TQ) for toxic substances under its RMP regulation.[16] That amount ranges from 500 to 20,000 pounds, depending on the toxicity and volatility of the substance. Likewise, DHS set the STQ for release-flammables at the same amount as EPA—10,000 pounds. The Department has adopted the EPA RMP TQs, because DHS accepts the same rationale that EPA used when setting its TQs—i.e., that they are amounts that, if released, have the potential to create significant human health effects. The Department realizes that, in developing these TQs, EPA collected extensive input on and conducted a thorough analysis, and DHS wants to leverage that knowledge base.

Whereas the Department had proposed to set the STQs for these release chemicals at seventy-five percent of the EPA RMP TQs in the IFR, the Department has instead set these STQs at the same amount as the EPA RMP TQs. In doing so, the Department accepted the recommendation of many commenters to set the STQ for these release chemicals at, rather than below, the EPA RMP TQs. The Department realized that it did not need to reduce its STQs to a level below that of the EPA TQs, because even though DHS and EPA are seeking to satisfy two different mandates (i.e., DHS to prevent an intentional release and EPA to prevent an accidental release), DHS has made accommodations for that difference. The DHS method for calculating an STQ is more conservative than that of the EPA for TQs. Under part 27, except for the exclusions listed in § 27.203(a), (b)(2), and (b)(3), a facility must aggregate the total amount of COI that it possesses at its facility, including COI that may exist in separate processes. By contrast, under EPA's RMP regulation, a facility must consider the total quantity of a regulated substance ''contained in a process'' that exceeds the TQ. *See* 40 CFR 68.115(a). For example, a facility that has multiple processes (involving an RMP substance), with each process below the threshold for the reportable TQ, would not be covered under RMP. That facility, however, would be covered under part 27 if the total quantity of all the processes (associated with a chemical of interest) was at or above the STQ.

DHS believes that, in the case of an intentional terrorist attack, chemicals or materials would likely be released from multiple vessels rather than a single vessel. As a result, the Department believes that setting the STQ at an amount that reflects the entire inventory of the facility better captures the potential consequences of an intentional attack. The Department believes this is more appropriate than EPA's valid assumption for accidents that the worst-case release[17] would be a release from the largest vessel.

Despite the general rule for release chemicals (i.e., that the DHS STQs are the same as the EPA TQs), there are a few differences between the EPA TQs and the DHS STQs. First, as discussed below in section II(D)(1), DHS treats propane differently than all other release-flammables. Second, the RMP TQ for toxic substances applies to all DHS release-toxics except for eleven[18] that meet the RMP listing criteria for both toxicity and flammability. EPA treats these substances as toxics in its RMP rule; however, DHS lists these substances as flammables (and sets the

[12] The Clean Air Act (42 U.S.C. 7401, *et seq.*) provides that the EPA shall promulgate a list of substances that ''in the case of accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.'' *See* 42 U.S.C. 7412(r)(3).

[13] Note that some of these chemicals present not only a release issue, but present additional security issue(s) too (e.g., theft and diversion or sabotage and contamination).

[14] The three release-toxics are: Toluene 2,4-diisocyanate; Toluene 2,6-diisocyanate; and Toluene diisocyanate (unspecified isomer).

[15] In 42 U.S.C. § 7412(r)(3), Congress directed EPA to include toluene diisocyanate (TDI) in its RMP list. EPA looked to the types of TDI in commercial production (i.e., those types listed on the Toxic Substances Control Act Chemical Substance Inventory) and listed the three forms noted in footnote 14.

[16] *See* 40 CFR part 68.

[17] In 40 CFR 68.3, EPA defines ''worst-case release'' as ''the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in § 68.22(a).''

[18] The eleven RMP release-toxics are: ethylene oxide, furan, hydrazine, hydrogen selenide, methyl chloride, methyl mercaptan, nickel carbonyl, peracetic acid, phosphine, propylene oxide, and tetranitromethane.

STQ at 10,000 pounds), because, in an intentional release, they are more likely to act like flammables and potentially create an explosive vapor cloud.

In calculating whether a facility meets the STQ for release-toxic or release-flammable chemicals, the facility need not include release-toxic or release-flammable chemicals of interest that a facility manufactures, processes, or uses in a laboratory at the facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3. See § 27.203(b)(2). DHS adopted this laboratory quantities exclusion, including the definition of ''technically qualified individual,'' from EPA. The comparable EPA laboratory quantities exemption is located in EPA's RMP regulation at 40 CFR 68.115(b)(5), and EPA's definition of ''technically qualified individual'' is located at 40 CFR 720.3(ee). EPA defines a ''technically qualified individual'' to mean ''a person or persons (1) who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision, (2) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.'' Like EPA, the DHS laboratory quantities exclusion does not apply to specialty chemical production; manufacture, processing, or use of substances in pilot plant scale operations; or activities, including research and development, involving chemicals of interest conducted outside the laboratory. Facilities that engage in such activities must count those chemicals toward their STQ.

DHS believes that, in a release, a lab quantity of a release chemical would not significantly contribute to the consequentiality of an attack. Moreover, under this provision, DHS believes that, where lab quantities of release chemicals are used, there are appropriate controls by virtue of the fact it is done so under the supervision of a technically qualified individual. In adding this laboratory quantity provision, DHS was responsive to the numerous commenters, including those from colleges, universities, and industrial laboratories, who requested such a provision.

As noted above, DHS adopted this laboratory quantities exclusion from the EPA. DHS, however, has made one minor clarifying adjustment to the language that it adopted from EPA. In response to comments, DHS added language to § 27.203(b)(2)(i) to make explicit that activities conducted outside the laboratory may include research and development activities. A facility must count all quantities of COI involved in activities conducted outside of the laboratory (including research and development) toward its STQ. In other words, such COI would not be subject to the laboratory quantities exclusion.

c. Minimum Concentration (Mixtures)

Pursuant to § 27.204(a) and as noted in the ''minimum concentration'' entries in the appendix, the minimum concentration of a release-toxic or release-flammable chemical of interest that a facility must include when counting the amount of COI is one percent (1%) by weight. Pursuant to § 27.204(a)(1), if a release-toxic chemical is present in a mixture, and the concentration of the chemical is equal to or greater than one percent (1%) by weight, the facility shall count the amount of the chemical of interest in the mixture toward the STQ. For example, if a facility has 500 pounds of a toxic mixture containing five percent (5%) acrolein, the facility should count five percent (5%) of the weight of the mixture, or 25 pounds of acrolein, toward the STQ of 5,000 pounds. Except for oleum, if a facility can measure or estimate (and document) that the partial pressure of the regulated substance in the mixture is less than 10 mm Hg, the facility need not consider the mixture when determining the STQ. If a release-toxic chemical of interest is present in a mixture, and the concentration of the chemical is less than one percent (1%) by weight of the mixture, the facility need not count the amount of that chemical in the mixture in determining whether the facility possesses the STQ. Note that these mixture provisions track those of the EPA in its RMP regulation. *See* 40 CFR 68.115(b)(1).

Pursuant to § 27.204(a)(2), if a release-flammable chemical of interest is present in a mixture in a concentration equal to or greater than one percent (1%) by weight of the mixture, and the mixture has a NFPA flammability hazard rating of 4, the facility shall count the entire weight of the mixture toward the STQ. For example, if a facility has 500 pounds of a flammable mixture containing five percent (5%) pentane and the mixture as a whole has a NFPA flammability hazard rating of 4, the facility shall count the entire weight of the mixture, or 500 pounds, toward the STQ of 10,000 pounds. If a release-flammable chemical of interest is present in a mixture in a concentration equal to or greater than one percent (1%) by weight of the mixture, and the mixture has a NFPA flammability hazard rating lower than 4 (i.e., NFPA hazard rating of 1, 2, or 3), the facility need not count the entire weight of the mixture toward the STQ. If a release-flammable chemical of interest is present in a mixture, and the concentration of the chemical is less than one percent (1%) by weight, the facility need not count the mixture in determining whether the facility possesses the STQ. Note that these mixture provisions track those of the EPA in its RMP regulation. *See* 40 CFR 68.115(b)(2).

2. Release-Explosives

a. Chemicals

To identify release chemicals that present an explosive hazard, DHS looked to the DOT hazardous materials regulations (*see* 49 CFR 171–180) and the EPA's original listing rule for RMP (*see* 59 FR 4478 (January 31, 1994)). DOT identifies explosives as one of nine classes of hazardous materials that it regulates and divides explosives (''Class 1 explosives'') into six divisions. *See* 49 CFR 173.50(b). Although DHS had included explosives from the six DOT explosives divisions in the proposed Appendix A, DHS is only including Division 1.1 explosives in this final appendix.[19] After consideration of comments and further review, DHS decided to focus on Division 1.1 explosives, which are those that have a mass explosion hazard. A mass explosion hazard is one which affects almost the entire load instantaneously.

DHS has incorporated all of the DOT Class 1, Division 1.1 explosive chemicals with only two broad exceptions. First, the Department does not include those explosive materials for which DOT uses a generic shipping name with the suffix ''N.O.S.'' [20] This refers to materials with generic descriptions in the Hazardous Materials Table in 49 CFR 172.101 (e.g., Substances, explosive, n.o.s.). The Department has instead identified the relevant Class 1 explosive materials as only those that DOT specifically names in its Hazardous Materials Table. Second, DHS does not include articles

[19] As a result of that decision, DHS removed chemicals such as dinitrosobenzene, sodium dinitro-o-cresolate, sodium picramate, tetrazol-1-acetic acid, and zirconium picramate.

[20] N.O.S. refers to ''not otherwise specified.''

or devices that DOT lists in its Hazardous Material Table. Examples of those articles and devices include charges, guns, detonators, detonator assemblies, fuses, primers, cartridges, and motors. DHS does not believe, at this time, that it is necessary to include this broader universe of substances and materials. Coverage of chemical facilities that present a high level of risk and that include these materials will be triggered by other STQ provisions of this rule. If the Department finds that is not the case for a particular facility, the Department will seek information from that facility.

DHS believes it is appropriate to include DOT Class 1, Division 1.1 explosive materials in Appendix A despite the EPA's exclusion of these materials. At the onset of the RMP program, EPA had listed DOT Division 1.1 explosives as a regulated substance. EPA set the TQ at 5,000 pounds, because the EPA believed that a blast wave from such an amount had the potential to cause offsite impacts. *See* 59 FR 4478 (January 31, 1994). EPA later issued a final rule, delisting Class 1, Division 1.1 explosives. *See* 63 FR 640 (January 6, 1998). In the final rule, EPA concluded that ''current regulations and current and contemplated industry practices promote safety and accident prevention in storage, handling, transportation, and use of explosives. As a result, these regulations and practices adequately protect the public and the environment from the hazards of accidents involving explosives.'' *See* 63 FR 640, 641. DHS notes that EPA's decisions were based on safety and the prevention of an accidental release. DHS is concerned with an intentional attack on an explosives facility, which has the potential to generate significant impacts for human life and health beyond the facility. Given the different focus of DHS's regulation, it is important that DHS consider DOT Class 1, Division 1.1 explosives; there is the potential for a serious off-site effect from an intentional and successful attack on a facility with these explosives.

b. STQ

DHS proposed an STQ of 2,000 pounds [21] for release-explosives but now sets the STQ for release-explosives at 5,000 pounds. As discussed above in relation to release-toxics and release-flammables, DHS has decided to set the STQ for release chemicals at the EPA TQs. Five thousands pounds is the TQ that EPA had used for DOT Division 1.1 explosives when the DOT Division 1.1 explosives were part of the EPA RMP program. In addition, this is the same quantity that TSA now proposes to use for DOT explosives in its Rail Transportation Security NPRM.[22] All release-explosives are also listed as theft/diversion-EXP/IEDP chemicals (although all theft/diversion-EXP/IEDP chemicals are not listed as release-explosives, because the theft/diversion-EXP/IEDP category includes both actual explosives and precursors to explosives). A facility that possesses a chemical that presents both a release-explosive hazard and a theft/diversion-EXP/IEDP hazard must consider both of the applicable STQs, and if the facility possesses a quantity that satisfies either STQ, the facility must complete and submit the Top-Screen.

In calculating whether a facility meets the STQ for release-explosive chemicals, the facility need not include release-explosive chemicals of interest that a facility manufactures, processes, or uses in a laboratory at the facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3. *See* § 27.203(b)(2). This provision is identical to the laboratory quantities provision that applies to release-toxic and release-flammable chemicals and that is discussed above.[23]

c. Minimum Concentration (Mixtures)

Section 27.204(a)(3) provides that a facility shall count toward the STQ the total quantity of all commercial grades of release-explosives. DHS has added a definition of ''A Commercial Grade'' (ACG) to § 27.105. ACG refers to any quality or concentration of a chemical of interest offered for commercial sale that a facility uses, stores, manufactures, or ships.

3. Theft/Diversion-CW/CWP

a. Chemicals

In identifying chemical weapons (CW) and their precursors that are at risk for theft or diversion, the Department looked to the chemicals covered by the Chemical Weapons Convention (CWC).[24] The chemicals covered by the CWC regulations are divided into three lists, or ''schedules,'' based on their previous use as a CW or possible utility in developing chemical weapons.[25] Schedule 1 covers chemical weapons agents and their immediate precursors. They have very limited industrial and medical applications. Schedule 2 covers chemicals and precursors that have some industrial uses. Schedule 3 covers chemicals and precursors with broad commercial applications, some of which were formerly weaponized.[26]

While the Department included chemicals from all three Schedules [27] in proposed Appendix A, the Department has only included select chemicals from the CWC Schedules in final Appendix A. The Department continues to include all specifically identified Schedule 1 chemicals, because they are actual CW agents and their immediate precursors. Note that, based on comments, the Department has listed these Schedule 1 chemicals by their individual common name along with their chemical name.

With respect to Schedule 2 and 3 chemicals, the Department has only included those Schedule 2 and 3 chemicals and precursors that are ''easily weaponizable''—that is, they could be easily converted into chemical weapons using simple chemistry, equipment, and techniques.[28] DHS made the determination about ''weaponizability'' after consulting with several sources, including the Federal Bureau of Investigation (FBI) and the DHS Chemical Security Analysis Center (CSAC).[29] As a result of this approach, the Department removed chemicals that had appeared on the proposed list but

[21] In the proposed appendix in the IFR, DHS set the STQ for these explosive chemicals at 2,000 pounds. In the IFR, however, DHS was only considering the theft/diversion concern. In the IFR, had DHS set the STQ for these explosive chemicals (using the method of calculating the STQ at 75% of the EPA RMP TQ) based on a release concern the STQ would have been 3,750 pounds. As discussed in this preamble, while the current EPA RMP does not contain release-explosives, EPA had previously included release-explosives in the RMP program, and when doing so, EPA set the TQ at 5,000 pounds.

[22] 71 FR 76852 (December 21, 2006). *See* proposed 49 CFR 1580.100(b)(1).

[23] *See* § II(C)(1)(b) above.

[24] The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction is an international arms control, disarmament, and non-proliferation treaty, which is implemented by 22 U.S.C. 6701, *et. seq.* The Department of Commerce administers the implementing regulations. *See* 15 CFR part 710.

[25] Schedule 1 chemicals are provided in Supplement No. 1 to 15 CFR part 712, Schedule 2 chemicals are provided in Supplement No. 2 to 15 CFR part 713, and Schedule 3 chemicals are provided in Supplement No. 3 to 15 CFR part 714.

[26] *See* ''The Chemical Weapons Convention Regulations: Frequently Asked Questions and Answers on Industry Compliance,'' U.S. Department of Commerce, Bureau of Industry and Security, Publication CWC–006 (Updated May 2006).

[27] There were a few Schedule 1 chemicals, however, that were inadvertently omitted from the proposed appendix.

[28] Among the Schedule 2 chemicals, DHS included certain easily-weaponizable chemicals that are representative of ''families'' of Schedule 2 chemicals (as opposed to uniquely identifiable Schedule 2 chemicals).

[29] One of the DHS Science and Technology Centers, the CSAC leverages existing Department of Defense (and other) infrastructure and capabilities to provide analysis and scientific assessment of the chemical threat against the homeland and the American public.

were now determined not to be easily weaponizable (e.g., chloropicrin). In addition to including select CWC chemicals, Appendix A also contains one other easily weaponizable chemical (triethanolamine hydrochloride) from the Australia Group's [30] ''Export Controls List: Chemical Weapons Precursors.''

b. STQ and Minimum Concentration (Mixtures)

DHS has eliminated the ''any amount'' STQ that it used in the proposed appendix for theft/diversion-CW/CWP chemicals. In this final appendix, DHS has set the STQ for each theft/diversion-CW/CWP chemical based on the Schedule from which DHS adopted the chemical. The STQ for Schedule 1 chemicals is cumulative, or ''CUM 100g,'' meaning that all amounts of Schedule 1 chemicals at a facility count toward the cumulative STQ of 100 grams. Section 27.203(c) provides that ''where a theft/diversion-Chemical Weapons (CW) chemical is designated by ''CUM 100g,'' a facility shall total the quantity of all such designated chemicals in its possession to determine whether the facility possesses theft/diversion-CW chemicals that meet or exceed the STQ of 100 grams.'' This is an aggregate amount and not a per agent limit. DHS added a definition for ''CUM 100g'' to § 27.105 ''Definitions'' and included this new provision in § 27.204(b)(1). ''CUM 100g'' is the entry for both the STQ and Minimum Concentration columns for all Schedule 1 chemicals. DHS decided to use this amount based on the recommendation of CSAC, which indicated that this amount merits proper security for purposes of preventing theft and diversion to create significant human impact and cause widespread panic.

The STQs for Schedule 2 and 3 chemicals, which are based on their ease of weaponization, are 2.2 pounds and 220 pounds, respectively.[31] Unlike the STQ for Schedule 1 chemicals, these STQs are not cumulative. For non-Schedule 1 theft/diversion-CW/CWP chemicals of interest that are present in a mixture at or above the minimum concentration listed in the column in Appendix A, the facility should count the entire amount of the mixture toward the STQ. *See* § 27.204(b)(1).

4. Theft/Diversion-WME

a. Chemicals

To identify chemicals that might be targeted for theft or diversion as weapons of mass effect (WME), the Department looked to the DOT hazardous materials regulations and considered gases that are poisonous by inhalation (PIH). In proposed Appendix A, DHS listed all DOT Division 2.3 PIH gases including those in Hazard Zones A through D.[32] In this finalized appendix, the Department has not included Hazard Zone D PIH gases (including carbon monoxide and sulfuryl fluoride), because they do not rise to a level of consequentiality that warrants inclusion as a theft/diversion-WME chemical.[33] In addition, the Department no longer includes methyl bromide on the list of chemicals, because it is being phased out of domestic manufacture and use under Clean Air Act regulations implementing the United States' obligations as a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer.[34] Thus, given the limited and decreasing availability of methyl bromide, the Department does not believe that the potential consequences of an attack warrant inclusion of that chemical on the list of chemicals in Appendix A.

In the proposed appendix, with one exception, DHS did not include DOT Division 2.3 PIH gases for which DOT uses a generic shipping name with the suffix ''N.O.S.'' DHS has done the same in this final appendix. N.O.S. refers to materials with generic descriptions (e.g., Compressed gas, n.o.s. or Compressed gas, toxic, flammable, corrosive, n.o.s. *Inhalation Hazard Zone D;* or Insecticide gases n.o.s. or Insecticide gases, toxic, flammable, n.o.s. *Inhalation hazard Zone A*). The Department has only included PIH gases that the Department of Transportation specifically names in the Hazardous Materials Table in 49 CFR 172.101. In addition, the Department has included germanium tetrafluoride.[35] While that chemical is not specifically named in the DOT Hazardous Materials Table, it is often named specifically by convention in industry. Given that it can be identified by its specific name and following a positive response from commenters as to the inclusion of this chemical, the Department decided to retain this chemical on the list.

b. STQ

DHS has eliminated the ''any amount'' STQ that it used in the proposed appendix for theft/diversion-WME chemicals. DHS developed the STQs for these chemicals in this final rule based generally upon recommendations from the Compressed Gas Association (CGA) in its comments to the proposed appendix in the IFR. The STQs for theft/diversion-WME chemicals vary based on Hazard Zone, thereby taking into account their relative toxicity. *See* 49 CFR 173.116 ''Class 2—Assignment of Hazard Zone.'' In their comments, CGA indicated that, aside from lecture bottles and sample cylinders, the minimum industry standard commercial size package for Hazard Zone A PIH gases is five (5) pounds, and the minimum industry standard commercial size package for Hazard Zone B PIH gases is fifteen (15) pounds. CGA recommended that DHS set the STQ for Hazard Zone A at any amount greater than five pounds and the STQ for Hazard Zone B at any amount greater than fifteen pounds. In this final rule, DHS has set the STQ for Hazard Zone A PIH gases, which are the most toxic of PIH gases, at fifteen (15) pounds, and the STQ for Hazard Zone B PIH gases at forty-five (45) pounds. These two STQs are the equivalent of approximately three standard commercial size packages for Hazard Zone A and B PIH gases. These two STQs represent quantities of Hazard Zone A and/or Hazard Zone B PIH gases that are likely to generate significant consequences, including the fact that portable quantities of these PIH gases may be subject to theft and/or diversion.

[30] The Australia Group is an informal group of countries, which aims to allow exporting or transshipping countries to minimize the risk of assisting chemical and biological weapon proliferation. See *http://www.australiagroup.net/en/control_list/precursors.htm.*

[31] The STQ for the chemical from the Australia Group, triethanolamine hydrochloride, is 220 pounds.

[32] DOT defines a ''gas poisonous by inhalation'' in 49 CFR 173.115(c) and assigns hazard zones in 49 CFR 173.116(a).

[33] One Hazard Zone D chemical, ethylene oxide, is listed in the final Appendix A, because of its inclusion on EPA's RMP list. DHS lists ethylene oxide as a release-toxic but not as a theft-WME chemical.

[34] Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*), which addresses stratospheric ozone protection, directs EPA to establish a program for phasing out production and use of ozone-destroying chemicals, including methyl bromide. These requirements are in furtherance of the United States' obligations, as a signatory to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, to limit the production and use of such chemicals. In 2000, EPA issued a direct final rulemaking, which allowed for the phased reduction in methyl bromide consumption and which extended the phase-out to 2005. *See* 65 FR 70795 (November 28, 2000). EPA has further extended the phase-out program until alternatives for all critical uses of the chemical are available. *See* 71 FR 38325 (July 6, 2006). *See also http://www.epa.gov/ozone/mbr/index.html.*

[35] The DOT shipping name for germanium tetrafluoride is ''Liquefied Gas, Toxic, Corrosive, n.o.s. (Germanium Tetrafluoride)'' if liquid is present and ''Compressed Gas, Toxic, Corrosive, n.o.s. (Germanium Tetrafluoride)'' if no liquid is present.

The STQ for Hazard Zone C PIH gases is 500 pounds. That amount is equivalent to approximately five standard industrial gas cylinders. Hazard Zone C PIH gases are less toxic than those in Hazard Zones A and B, and DHS therefore has concluded that it is unlikely for amounts less than 500 pounds to generate a high degree of consequence.

These general STQ rules apply to all theft/diversion-WME chemicals except in two instances. First, DHS has established specialized provisions for chlorine, which are discussed below in section II(D). Second, DHS set the STQ for two Hazard Zone C PIH gases (hydrogen fluoride and boron trichloride) at the STQ associated with Hazard Zone B PIH gases—i.e., 45 pounds instead of 500 pounds. Although DOT categorizes these substances as Hazard Zone C, industry generally treats these gases as Hazard Zone B gases because of their toxic properties. Industry commenters recommended, and DHS agreed, that the toxic properties of these chemicals warrant a higher degree of scrutiny and unique STQ in the security context.

c. Minimum Concentration (Mixtures)

If a theft/diversion-WME chemical of interest is present in a mixture at or above the minimum concentration amount listed in the Minimum Concentration column of the appendix, the facility shall count the entire amount of the mixture toward the STQ unless a specific minimum concentration is assigned in the Minimum Concentration column of Appendix A to part 27, in which case the facility should count the total quantity of all commercial grades of the chemicals at the specified minimum concentration. *See* § 27.203(b)(2). DHS derived the minimum concentrations from the Compressed Gas Association Standard for Classification of Toxic Gas Mixtures, CGAP–20–2003.

5. Theft/Diversion-EXP/IEDP

a. Chemicals

To identify chemicals that could be subject to theft or diversion for purposes of creating an explosion or producing an Improvised Explosive Device (IED),[36] the Department considered several sources. For proposed Appendix A, the Department included certain DOT Class 1 explosives.[37] The Department also included IED precursors that the National Research Council recommended for additional control in its report titled ''Containing the Threat from Illegal Bombings: An Integrated National Strategy for Marking, Tagging, Rendering Inert, and Licensing Explosives and Their Precursors.'' [38]

While the universe of theft/diversion-EXP/IEDP chemicals has remained substantially the same since the IFR, DHS has added a few chemicals (including IED precursors) and deleted a few chemicals at the recommendation of the FBI.[39] The FBI Explosives Unit [40] recommended the inclusion of certain chemicals based on their experience investigating IED attacks and evaluating IED components.

Of note in the realm of deleted chemicals (especially to the many commenters who requested their removal), the Department no longer includes acetone and urea in the appendix. Given the Department's inclusion of concentrated nitric acid and concentrated hydrogen peroxide in the appendix, the Department does not believe it is necessary to include acetone and urea. The Department is concerned about these chemicals, because they can be mixed to create explosives (e.g., Triacetone Triperoxide (TATP) includes both acetone and hydrogen peroxide). The Department is electing, therefore, to list the more critical chemicals (i.e., concentrated hydrogen peroxide and concentrated nitric acid) of those mixtures. The effect is to target regulation to facilities possessing chemicals of interest to terrorists in order to thwart terrorism.

The Department's decision is supported by the conclusions of the National Research Council report. In pertinent part, the National Research Council provides:

It is not feasible to control all possible chemical precursors to explosives. Efforts to control access should focus on the chemicals identified by the committee as current candidates for control in the United States. These chemicals are ammonium nitrate, sodium nitrate, potassium nitrate, nitromethane, concentrated nitric acid, concentrated hydrogen peroxide, sodium chlorate, potassium chlorate, and potassium perchlorate. Urea and acetone also meet the criteria for control but are adequately controlled if access to nitric acid and hydrogen peroxide is limited.[41] (Emphasis in the original.)

In its discussion of chemicals that pose the greatest threat in the United States because of their ability to be used to improvise bombs, the National Research Council further discussed nitric acid/urea and hydrogen peroxide/acetone:

Urea can be reacted with nitric acid to produce the explosive urea nitrate, the material used in the World Trade Center bombing. Urea is a nondetonable, ubiquitous, and inexpensive material with an annual production volume in North America of 19 million short tons (IFDC, 1997). It is used extensively as a fertilizer, as a noncorrosive ice-melting material at public facilities and in private homes, and as a reagent in many chemical processes. Because urea is a relatively innocuous chemical with a wide range of uses, the committee believes that preventing access to urea nitrate for illegal purposes is more easily achieved by controlling the other critical component required to make an explosive: nitric acid.[42]

Nitric acid, which is toxic and highly corrosive, has many industrial applications but is not commonly available to the general public. For that reason, the committee believes that sales of nitric acid are much more traceable than those of urea. Furthermore, controls on nitric acid would provide greater leverage in efforts to prevent bomb attacks than would controls on urea, because nitric acid can be reacted with a wide range of organic materials (e.g., cellulose, glycerine, and amines) to produce explosives. Although much of the nitric acid produced is used in on-site chemical processes, a large amount is shipped in tank cars to chemical processing plants or packaged in drums for sale to commercial businesses such as etchers and metal platers. All of these uses are amenable to good sales record keeping. The committee believes that such sales records are probably adequate for current law enforcement needs.[43]

Hydrogen peroxide can be reacted with acetone to make the powerful explosive TATP, which has been used by terrorists abroad but not thus far to any great extent in the United States. It can be made in large

[36] An IED is a device fabricated in an improvised manner that incorporates in its design explosives or destructive, lethal, noxious, pyrotechnic, or incendiary chemicals. It generally includes a power supply, a switch or timer, and a detonator or initiator.

[37] *See* discussion in section II(C)(2) above.

[38] The National Academy Press published the Report, which is available online at *www.nap.edu.* The National Research Council had appointed ''The Committee on Marking, Rendering Inert, and Licensing of Explosive Materials'' to address areas related to explosives. This final report presents the Committee's conclusions and recommendations.

[39] DHS added aluminum (powder), magnesium (powder), nitrobenzene, potassium permanganate, sodium azide, sodium hydrosulfite, and zinc hydrosulfite.

[40] As stated on the FBI website, the FBI Explosives Unit ''examines evidence associated with bombings. Explosives examinations involve the identification and function of the components used in the construction of incendiary as well as improvised explosive devices. In addition, the Unit performs chemical analyses to determine the type of explosive used in an improvised explosive or incendiary device, which includes bulk substance analysis as well as analysis of the residues left behind when an explosive detonates.'' See *http://www.fbi.gov/hq/lab/org/eu.htm.*

[41] *See* the Executive Summary of the National Research Council Report titled ''Containing the Threat from Illegal Bombings: An Integrated National Strategy for Marking, Tagging, Rendering Inert, and Licensing Explosives and Their Precursors,'' p. 15.

[42] *Id.* at p. 147.

[43] *Id.* at p. 147.

quantities but is extremely unstable and dangerous to handle.[44]

Acetone, one of the most common organic solvents, can be purchased readily from many sources in large quantities. As in the case of nitric acid and urea, controlling access to TATP is achieved more readily by limiting the availability of hydrogen peroxide than by controlling acetone. As with controls on nitric acid, controls on hydrogen peroxide would be preferred because hydrogen peroxide can be reacted with chemicals other than acetone to produce explosives.[45]

The Department, after consultation with the FBI Explosives Unit, finds persuasive the conclusion of the National Research Council and removed acetone and urea from Appendix A. The Department also removed nitro urea and urea nitrate, neither of which is commercially available.

With respect to hydrogen peroxide, the Department has adjusted the concentration. In the proposed appendix, the Department listed a concentration of ''at least 30%.'' In this final appendix, the Department has increased the concentration for hydrogen peroxide to 35%, a common technical and food grade of hydrogen peroxide. The original 30% concentration was based on IED precursor regulations proposed in Canada. The Department received comments from various industries about the importance of hydrogen peroxide and the most common commercial grades of the chemicals. In consultation with the FBI Explosives Unit, the Department has revised the concentration it set for hydrogen peroxide, believing that this change in concentration will not significantly increase the likelihood of missing a high risk chemical facility through the part 27 program.

b. STQ

DHS has changed the STQ for theft/diversion-EXP/IEDP chemicals from the proposed amount of 2,000 pounds to 400 pounds. This new STQ equals the amount that is likely required to produce a small, vehicle-borne IED (VBIED). This STQ applies to all theft/diversion-EXP/IEDP chemicals except for (1) ammonium nitrate, which the Department discusses below in section II(D)(3) and for (2) a few chemicals where DHS used a different STQ at the recommendation of the FBI Explosives Unit. Specifically, DHS set the STQ for aluminum powder, magnesium powder, and nitrobenzene at 100 pounds instead of 400 pounds, because DHS believes that the effect of these particular chemicals at these quantities would have the same effect as the other theft/diversion-EXP/IEDP chemicals at 400 pounds.

c. Minimum Concentration (Mixtures)

As provided in § 27.204(b)(3), a facility shall count toward the STQ the total quantity of all commercial grades of a theft/diversion-EXP/IEDP chemical at the facility unless a specific minimum concentration is assigned in the Minimum Concentration column of Appendix A to part 27, in which case the facility should count the total quantity of all commercial grades of the chemicals at or above the specified minimum concentration. There are specified minimum concentrations for a few of the theft/diversion-EXP/IEDP chemicals, such as hydrogen peroxide (35%) or ammonium nitrate (nitrogen concentration of 23% nitrogen or greater). DHS has added a definition of ''A Commercial Grade'' (ACG) to § 27.105. ACG refers to any quality or concentration of a chemical of interest offered for commercial sale that a facility uses, stores, manufactures, or ships.

6. Sabotage/Contamination

a. Chemicals

Sabotage/contamination refers to those chemicals that, if mixed with other readily-available materials, have the potential to create significant adverse consequences for human life or health. The Department's list of sabotage/contamination chemicals is substantially the same in the final appendix as it was in the proposed appendix.

Sabotage/contamination chemicals currently include those chemicals that are capable of releasing a poisonous gas when exposed to water. In identifying the chemicals for this category, the Department referred to the table of ''Water-Reactive Materials Which Produce Toxic Gases'' in the 2004 Emergency Response Guidebook (ERG 2004).[46] The ERG 2004 is a joint publication of the U.S. Department of Transportation, Transport Canada, and the Secretariat of Communications and Transportation of Mexico. These materials are listed in the ERG 2004 as incompatible with water, because they produce large amounts of Toxic by Inhalation[47] gases when exposed to water.

b. STQ

In the proposed appendix, the STQ for sabotage/contamination chemicals was 2,000 pounds. The STQ now listed for sabotage/contamination chemicals is A Placarded Amount (APA). DHS added a definition of APA to § 27.105, providing that it refers to the STQ for a sabotage/contamination chemical of interest, as calculated in accordance with § 27.203(d). Section 27.203(d) provides that ''[a] facility meets the STQ for a sabotage/contamination chemical of interest if it ships the chemical and is required to placard the shipment of that chemical pursuant to the provisions of subpart F of 49 CFR part 172.'' Subpart F of 49 CFR part 172 contains the DOT placarding requirements within the DOT Hazardous Materials regulations.

c. Minimum Concentration (Mixtures)

As provided in § 27.204(c), a facility shall count toward the STQ the total quantity of all commercial grades of a sabotage/contamination chemical that it possesses unless a specific minimum concentration is assigned in the Minimum Concentration column of Appendix A to part 27, in which case the facility should count the total quantity of all commercial grades of the chemicals at the specified minimum concentration. DHS has added a definition of ''A Commercial Grade'' (ACG) to § 27.105. ACG refers to any quality or concentration of a chemical of interest offered for commercial sale that a facility uses, stores, manufactures, or ships.

D. Chemicals With a Specialized Approach

1. Propane

Propane, a release-flammable chemical, is one of the many RMP flammable chemicals that DHS adopted from EPA's RMP list. In the IFR, the proposed STQ for propane (an RMP flammable) was 7,500 pounds, which is seventy-five percent of the RMP TQ. Using the revised general DHS rule for release-flammables, the STQ for propane would be 10,000 pounds. DHS, however, set the STQ for propane in this final rule at 60,000 pounds. Sixty thousand pounds is the estimated maximum amount of propane that non-industrial propane customers, such as restaurants and farmers, typically use. The Department believes that non-industrial users, especially those in rural areas, do not have the potential to create a significant risk to human life or health as would industrial users. The Department has elected, at this time, to focus efforts on large commercial

[44] *Id.* at p. 148.

[45] *Id.* at p. 148.

[46] The table is located on pages 344–348 of the ERG 2004, which is available on the Web at *http://hazmat.dot.gov/pubs/erg/gydebook.htm.*

[47] Toxic by Inhalation (TIH) is synonymous with Poisonous by Inhalation (PIH).

propane establishments but may, after providing the public with an opportunity for notice and comment, extend its part 27 screening efforts to smaller facilities in the future. This higher STQ will focus DHS's security screening effort on industrial and major consumers, regional suppliers, bulk retail, and storage sites and away from non-industrial propane customers. The minimum concentration and mixtures provisions for propane are the same as for all other release-flammables.

Pursuant to § 27.203(b)(3), facilities need not include propane in tanks of 10,000 pounds or less when calculating whether a facility has a total inventory of 60,000 pounds. DHS included this provision, in part, because of its desire to exclude farmers and agricultural users of propane who routinely have three or more propane tanks[48] for heating their homes and/or their chicken/turkey houses. If DHS listed propane at 10,000 pounds (the STQ for all other release-flammable chemicals), many more entities, including homeowners, farmers, and small businesses, would have to complete and submit the Top-Screen. DHS does not expect that such dispersed inventories, often located away from population centers, are likely to meet its definition of high risk chemical facilities. DHS believes that the revised approach toward propane is better geared toward identifying and addressing the risks associated with major propane inventories.

2. Chlorine

In the proposed appendix, DHS set the STQ for chlorine at 1,875 pounds. There are two security issues associated with chlorine, each with its own STQ. Using the DHS baseline rules, the STQ for chorine as a release-toxic would be 2,500 pounds,[49] and the STQ for chlorine as a theft/diversion-WME chemical would be 45 pounds.[50] Consistent with all other release-toxic chemicals, DHS set the release-toxic STQ for chlorine at 2,500 pounds and requires facilities to use the calculation and mixtures provisions that apply to all other release-toxic chemicals. *See* §§ 27.204(a)(1) and 27.203(b)(1)(i)–(ii).

DHS, however, developed a unique approach for chlorine where it presents a theft/diversion-WME security issue. Instead of 45 pounds, DHS established a higher STQ for the theft-WME STQ for chlorine—500 pounds.[51] Five hundred pounds is the equivalent of five standard 100-pound cylinders. (The minimum concentration for chlorine that presents a theft-WME security issue is 9.77%.) Setting the theft/diversion-WME STQ for chlorine at 45 pounds would have been both burdensome for numerous manufacturers (which are reliant on chlorine as a starting material) and difficult for DHS to effectively implement, manage, and enforce. The U.S. produces 11 million metric tons of chlorine per year. The vast majority of chlorine production is used for processing a wide range of paper, plastic, textile, medicine, insecticides, paint, and other materials. Chlorine is also used in water and wastewater treatment. While most chlorine is consumed at the facility where it is produced, four million metric tons are shipped annually in small containers, one-ton containers, and cargo tank motor vehicles, and tank cars across the country.

Given the enormous production, transportation, and importance of chlorine, DHS increased the theft/diversion-WME STQ for chlorine from 45 pounds to 500 pounds. DHS believes that quantities less than 500 pounds would capture facilities that are unlikely to present significant consequences. This amount is considered a portable and transportable amount that could be diverted or stolen. Overall, DHS's approach toward chlorine recognizes that chlorine is distinct from other WME precursors in terms of its broad utility and availability.

3. Ammonium Nitrate (AN)

In proposed Appendix A, the Department identified only one form of ammonium nitrate (nitrogen concentration of 28%–34%) and set the STQ at 2,000 pounds. Based on the consideration of comments, the Department has revised its approach in this final appendix, identifying AN in two forms: (1) The DOT Division 1.1 explosive found in 49 CFR 172.101 and (2) the more common form frequently used as a fertilizer. DHS assigned a STQ to each form. Given the breadth of AN's use and history, DHS has crafted a specialized approach to address this chemical's specific security concerns.

The first entry for AN in the appendix addresses AN as an explosive. The Department has listed the DOT Division 1.1 explosive: Ammonium nitrate [with more than 0.2 percent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance].[52] As an explosive, AN presents two security issues: Theft/diversion-EXP/IEDP and release-explosive. DHS is treating the possible theft/diversion of this form of AN in the same way that it is treating all other DOT Division 1.1 explosives.[53] Where a facility has larger amounts of AN as an explosive, there may also be release hazards. As that is the case, DHS has set the STQ for the possible release of AN as an explosive at 5,000 pounds.[54] That STQ is the same TQ that EPA had set for DOT Division 1.1 explosives when EPA included such substances in its RMP rule.

The second entry for AN in the appendix addresses the more common form of AN in solid form with a nitrogen concentration of 23% or greater. This form of AN is largely used in the agricultural community and in amounts that typically exceed 400 pounds (the STQ for all other theft/diversion-EXP/IEDP chemicals). Given the circumstances surrounding its use (i.e., extensive use in the agricultural industry), DHS has set the STQ for this form of AN at 2,000 pounds. (This form of AN in a mixture will count toward the STQ in a minimum concentration of 33% or more.) This STQ is geared toward ensuring that DHS secures AN inventories at major manufacturing and distribution facilities, as opposed to individual farmers involved mainly in the application of AN. DHS believes that terrorists are interested in maximizing death and injuries from an attack and are, therefore, less interested in attacking facilities in rural areas or other areas with low population densities.

DHS referenced many sources in developing this approach. In addition to considering DOT and EPA regulations, DHS consulted with Departmental experts, such as the DHS Office for Bombing Prevention, which administers the Bomb Making Awareness Program, and other federal experts, such as the FBI Explosives Unit. The Department's

[48] Typical tank sizes include approximately 2,205 pounds and 4,418 pounds.

[49] DHS used the RMP TQ for release-toxic chemicals, and the RMP TQ for chlorine is 2,500 pounds.

[50] Chlorine is a DOT Division 2.3 PIH gas in Hazard Zone B, and the baseline STQ for Hazard Zone B PIH gases is generally 45 pounds.

[51] As with all theft/diversion chemicals, facilities must only count toward the theft-WME STQ for chlorine those quantities of chlorine in transportation packagings. *See* § 27.203(c).

[52] The entry for this form of AN can be found in the DOT Hazardous Materials Regulations at 49 CFR § 172.101.

[53] Where AN as an explosive presents a theft-EXP/IEDP security issue, the STQ is 400 pounds, and a facility is expected to include all amounts of ACG of AN when determining whether it meets or exceeds the STQ. And, per § 27.203(c), in calculating this theft STQ, facilities need only count amounts in transportation packagings.

[54] Consistent with the mixtures provision for all release-explosives (*see* § 27.204(a)(3)), facilities are expected to include all amounts of ACG of AN in calculating the STQ.

approach was further supported by international resources, including the British Health and Safety Executive's publication titled ''Storing and Handling Ammonium Nitrate'' and Canada's proposed regulations on Restricted Components issued pursuant to Canada's Explosives Act.[55]

E. Technical Corrections

DHS made several technical corrections to the chemicals listed in Appendix A, and those corrections, many of which are highlighted below, improve the accuracy of the list. Many commenters assisted DHS in identifying these items. DHS removed the entries for certain chemicals (because they were synonyms for already-listed chemicals) and instead listed them as synonyms in the new ''Synonyms'' column.[56] DHS also corrected the Chemical Abstract Service (CAS) number for several chemicals[57] and the spelling and/or name of other chemicals.[58]

In addition, DHS made chemical-specific edits. For example, DHS separated the entry for ''hydrogen fluoride/hydrofluoric acid (conc. 50% or greater)'' into two entries. DHS had included them as one listing in the proposed listing, because they were included as such on EPA's RMP list. As they are two different chemicals (one is a gas and the other is a fuming liquid), albeit with the same CAS number, DHS has separated them into two entries.[59]

As another example, DHS clarified the inclusion of various explosive chemicals. The Department added RDX/cyclotrimethylenetrinitramine (CAS #121–82–4), which had been inadvertently omitted in the proposed appendix. The Department is including this DOT Division 1.1 explosive, because the Department is including all such DOT Division 1.1 explosives, given the risk of their theft or diversion for terrorism purposes. The Department now lists HMX under its common name (i.e., HMX); in the proposed appendix, the Department had listed HMX under its chemical name (cyclotetramethylenetetranitramine). Note, however, that the Department has included HMX's chemical name in the synonym column for the HMX entry.

III. Discussion of Comments

In the Interim Final Rule, DHS sought comment on the proposed list of DHS Chemicals of Interest in Appendix A to part 27. DHS received approximately 4,300 public comments, and almost 4,000 of those comments were related to the issues surrounding propane. Commenters to the proposed appendix included trade associations, citizens, companies, universities, hospitals and research facilities, and members of Congress. In the sections below, DHS provides a topical summary of the comments and responses to those comments.

A. Specific Chemicals or Types of Chemicals

1. In General

Comment: Commenters suggested that DHS should remove chemicals that are widely used in the U.S., (e.g., acetone, chlorine, propane, sodium nitrate, urea), asserting that such chemicals should not be regulated as a chemical security risk. Some argued that commonly available chemicals are unlikely targets of theft from a facility. Other commenters provided specific arguments why DHS should not regulate commonplace chemicals: Carbon monoxide is a common byproduct that can occur frequently in everyday locations (e.g., from a car, heater, or furnace). Hydrogen sulfide is a natural byproduct that is easily generated, whether in labs during reactions or from geothermal facilities.

Yet other commenters thought that there was only limited harm from other chemicals, and so DHS should not regulate those chemicals. For example, potassium nitrate and sodium nitrate do not ignite on their own, therefore the explosive hazard from those chemicals is reduced, and so DHS should not regulate these chemicals on their own. And, the flashpoint of triethanolamine, at 212 degrees Fahrenheit, is so high that it would have to be extremely hot for the chemical to heat up, ignite, and become an explosive hazard.

Response: The Department has included the chemicals of interest in Appendix A due to their potential, when used as part of an attack, to create significant human life or health consequences. Each of these chemicals presents at least one of the security issues described in section II above. Not only has the Department carefully weighed the value of including any given chemical, but the Department has clearly defined the parameters for each chemical. In this final rule, the Department has replaced the ''any amount'' STQs (that it proposed in the IFR) with numerical quantities. The Department has also provided instruction on how a facility should calculate an STQ and how a facility should consider chemicals of interest in a mixture. *See* §§ 27.203 and 27.204.

In addition, the Department reiterates that possession of a chemical of interest listed in Appendix A does not equate to coverage under the standards in part 27. Possession of a chemical of interest at the listed STQ is merely a trigger for a facility to complete and submit a Top-Screen. Furthermore, when a facility completes a Top-Screen, that information becomes but one factor in the Department's determination of whether a facility presents a high level of security risk.

In response to the comments about specific chemicals, the Department replies as follows: DHS removed carbon monoxide from the list as part of its larger decision to remove DOT Division 2.3 PIH gases in Hazard Zone D. Carbon monoxide is a Hazard Zone D PIH gas. DHS continues to list hydrogen sulfide on the list, because it meets the Department's criteria for both release-toxic and theft/diversion-WME chemicals. EPA lists hydrogen sulfide as a release-toxic on its RMP list. Aside from the exceptions noted above, DHS has included as release-toxics in Appendix A all of the toxics on EPA's RMP list. Also, DOT identifies hydrogen sulfide as a Division 2.3 PIH gas, Hazard Zone B. Aside from the exceptions noted above, DHS has included all of the DOT Division 2.3 PIH gases as theft/diversion-WME chemicals in Appendix A. DHS, however, excludes naturally occurring sources (such as geothermal operations) of hydrogen sulfide pursuant to § 27.203(a)(9). DHS continues to list potassium nitrate and sodium nitrate, although they are

[55] The Explosives Regulatory Division (ERD) of Natural Resources Canada has posted the proposed regulation on their Web site at *http://www.nrcan.gc.ca/mms/explosif/pdf/RestrictedComp_e.pdf.*

[56] This includes, for example, calcium dithionite (already listed as calcium hydrosulfite), sodium dithionite (already listed as sodium hydrosulfite); zinc dithionite (already listed as zinc hydrosulfite); and dimethyl phosphoramido-dichloridate (already listed as N, N-dimethyl phosphoramidic dichloride).

[57] This includes, for example, chromium oxychloride; DF, dinitroresorcinol; dipicrylamine [or] hexyl (formerly listed as hexanitrodiphenylamine, which is now listed as a synonym); hexyltrichlorosilane; magnesium aluminum phosphide (now listed separately as magnesium phosphide and aluminum phosphide); octonal; octolite; sodium phosphide; strontium phosphide; torpex (formerly listed as hexotonal); and trinitronaphthalene.

[58] This includes, for example, 1-pentene; boron trifluoride (and its synonym borane, trifluoro); boron trifluoride compound with methyl ether (1:1); pentaerythritol tetranitrate; propyl chloroformate; sulfur tetrafluoride (and its synonym sulfur fluoride); and vinyl acetylene.

[59] For hydrofluoric acid (conc. 50% or greater), which presents a release-toxic security issue, DHS assigns a STQ of 1000 pounds and minimum concentration of 50% or greater. For hydrogen fluoride (anhydrous), when it presents a release-toxic security issue, DHS assigns a STQ of 1,000 pounds and a minimum concentration of 1.00%. For hydrogen fluoride (anhydrous), when it presents a theft-WME security issue, DHS assigns a STQ of 15 pounds and a minimum concentration of 42.53%.

common oxidizers, they could be used to create IEDs. Finally, DHS continues to list triethanolamine, because it can be easily converted into a chemical weapon, not because of the flashpoint or other physical characteristics of the chemical itself.

Comment: Commenters remarked on how some Appendix A chemicals of interest, such as acetone, propane, and urea, are preferable to possible substitutes not on Appendix A, due to their comparatively lower toxicity or environmental impact. In particular, they noted that the inclusion of certain chemicals means that facilities, in an attempt to avoid going through the screening process, will transition away from Appendix A chemicals and possibly toward more dangerous substitutes. For example, in lieu of acetone, facilities might transition to the use of more toxic solvents.

Response: With respect to the specific chemicals mentioned, DHS notes that, for the reasons discussed above, DHS has removed acetone and urea from the list of chemicals, and it has substantially revised the STQ for propane. As for concerns that facilities will transition to more dangerous substitute chemicals, DHS makes the following points. Appendix A is DHS's first attempt to identify chemicals of interest around which there are serious security concerns, and the aim of Appendix A is to provide a screening tool for the DHS chemical security regulatory program. If there is a need to address different or additional chemicals in the future, DHS has the option of revising Appendix A, subject to notice and comment when appropriate, to include any different or additional chemicals. The Department also has the ability to reach out directly to facilities it believes may present a high level of security risk, even for chemicals not included in Appendix A. *See* 27 CFR 27.210(a)(1)(ii).

While facilities covered by part 27 have flexibility in deciding how to meet the part 27 requirements (for example, a facility can choose to reduce, substitute, or eliminate its inventory of an Appendix A chemical of interest at any time), DHS will, through its review of Site Security Plans and visits to facilities, determine whether facilities have adequately selected, developed, and implemented risk-based measures designed to satisfy the risk-based performance standards. *See* 27 CFR 27.225 and 27.245.

Comment: One association recommended that DHS exclude from the list anhydrous ammonia used for food refrigeration and contained in closed-loop refrigeration systems. Another individual, however, supported DHS inclusion of facilities that use anhydrous ammonia either for refrigeration during food processing and storage or as part of emission controls for coal-fired electrical generation, because such facilities are typically near population centers and transportation systems. Several other commenters urged DHS to increase the 7,500 pound STQ for anhydrous ammonia, so that it would match the TQ for other regulatory programs.

Response: As a toxic chemical utilized across industries, DHS believes that anhydrous ammonia can present a high risk and, under certain circumstances, generate major consequences for human life or health. Therefore, DHS continues to include anhydrous ammonia in the list of chemicals. DHS, however, raised the STQ for anhydrous ammonia to 10,000 pounds. That tracks the amount that EPA uses in its RMP regulation. *See* 40 CFR 68.130, Table 1. DHS expects that facilities will count toward their STQ the quantity of anhydrous ammonia stored as part of a refrigeration system in addition to the quantity of anhydrous ammonia in the actual system

Comment: Manufacturing plants pointed out that most plants need a minimum inventory of nitric acid to operate efficiently. Commenters assert that 2,000 pounds, the amount proposed in Appendix A, is too low to operate efficiently, and therefore, large numbers of manufacturing plants would have to go through the Top-Screen process. Other commenters remarked that nitric acid is included in the inventory of laboratories at colleges and universities.

Response: The Department continues to include nitric acid in Appendix A given the security risks it presents. In large quantities, nitric acid presents a release hazard, and so DHS has set the STQ at 15,000 pounds. In addition, DHS is aware that nitric acid, in smaller quantities, is useful in creating IEDs. DHS has set the STQ for divertible quantities of nitric acid (i.e., amounts in transportation packagings) at 400 pounds.

2. Propane

In proposed Appendix A, the Department included propane on the list of Chemicals of Interest (COI) with a STQ of 7,500 pounds.

Comment: DHS received almost 4,000 comments related to propane, and many of these comments disagreed with the proposed inclusion of propane and the proposed STQ for propane. There were comments from propane distributors and retailers; agricultural businesses; private citizens; and numerous small business, including forklift operators, camp grounds, parks, bakeries, and construction companies.

Agricultural businesses indicated that they use propane for multiple purposes, including heating their chicken and/or turkey houses, drying produce, or keeping livestock and farm produce warm. They indicated that many farms have multiple tanks of propane and that the regulation will impact many small, family-owned farms, which will have to complete the Top-Screen. Others pointed out that these propane tanks on farms are often separated by a significant distance or a building.

Propane distributors and retailers indicated that their main customer base is residential, commercial/industrial, motor fuel, agricultural, and wholesale. In the residential market, propane is used primarily for home heating, water heating, and cooking purposes. Many commenters stated that a significant percentage of their customer base, including residential users, would have to complete and submit a Top-Screen under the proposed threshold. They speculated that this might force propane users to shift to other more environmentally hazardous fuel sources. Retailers and distributors also claimed that customers had already begun to request the completion and submission of the Top-Screen on their behalf.

Commenters asserted that the worst case scenario of an explosion from a 1,000 gallon tank of propane is only approximately 500 feet for a 1 psi over-pressure condition. While that type of incident is enough to break windows and cause injuries due to glass shrapnel, they did not think it would be likely to cause structural damage and, hence, should not be considered as a national security threat.

Many commenters felt that that DHS had gone beyond the limitations contained in Section 550 of the Department of Homeland Security Appropriations Act of 2007, which they asserted provides that nothing in the rules can supersede other federal laws pertaining to the manufacture, distribution in commerce, use, or sale of chemicals. *See* Section 550(f). Commenters offered suggestions for revisions. Many commenters suggested that DHS should incorporate the statutory exemptions from EPA's Risk Management Program rules, including the statutory exemptions from the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act (Pub. L. 106–40). Commenters also proposed that DHS add a footnote to the Appendix A entry for propane, indicating that regulated entities need not count all propane storage tanks of less than 1,200 gallons toward the threshold amount.

Response: The Department continues to include propane in the list of chemicals in Appendix A. The Department has not adopted the statutory exemption from the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act (Pub. L. 106–40). That Act amended the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program, and for other purposes. EPA codified that provision at 40 CFR 68.126. Congress did not include such a provision exempting propane in the authorizing legislation for part 27, and so DHS has not exempted propane from part 27. The Department disagrees with the statement that the Department has gone beyond the limitations contained in Section 550. The listing of propane in Appendix A merely triggers the requirement that a facility (possessing the listed amount) complete and submit a Top-Screen to DHS. That, in no way, supersedes any other federal law regulating manufacture, sale, or use of propane.

The Department, however, has changed several provisions related to propane, as discussed in section II(D)(1). The Department believes its approach to securing significant stocks of propane is informed, manageable, and proportionate to its existing use and risk profile. In response to the comment about propane storage tanks, the Department notes that, per § 27.203(b)(3), DHS will not require facilities to include quantities of propane in tanks of 10,000 pounds or less.

3. Chlorine

In proposed Appendix A, the Department included chlorine on the list with an STQ of 1,875 pounds.

Comment: Many commenters provided input on DHS's inclusion of chlorine on the COI list. The majority of commenters encouraged DHS to use the EPA RMP TQs for all RMP release-toxic chemicals, including chlorine. They argued that the RMP TQ of 2,500 pounds is a well-reasoned number and that the chemical industry is familiar with that number. As an additional argument against an STQ of 1,875 pounds, commenters argued that large amounts of chlorine are readily available through production or purchase given its diversified uses in and across the water treatment, electronics, steel, pharmaceutical, and plastics industries. Similarly, other commenters asserted that water and wastewater treatment facilities possess chlorine, however those locations are not chemical facilities in a traditional sense and therefore they are lower risk locations.

By contrast, one individual commenter recommended a lower STQ for chlorine. The commenter suggested that DHS should lower the STQ for chlorine to 150 pounds, which is the size of a commonly available commercial cylinder. The commenter was concerned that the theft of small containers of chlorine would enable a terrorist to use chlorine gas in attacks on public gatherings.

Response: While the Department recognizes the importance of chlorine to the Nation's critical infrastructure and key resources, and especially the chemical sector, the Department also realizes that the theft/diversion of chlorine to develop a WME is a serious security concern. Recent terrorist incidents involving chlorine cylinders in Iraq have reinforced this concern. To balance these concerns, the Department has developed a revised approach toward chlorine, which is discussed in section II(D)(2) above. With this approach, the Department hopes to facilitate the introduction and implementation of security standards that prevent the theft or diversion of chlorine for terrorist purposes without unduly interfering with the continued, legitimate production, transportation, and use of chlorine. In response to the comment about public water systems and water treatment systems, the Department notes that it has excluded those systems consistent with the statutory exclusion in Section 550 (*see* § 27.110(b)).

4. Ammonium Nitrate (AN)

In proposed Appendix A, the Department included ammonium nitrate (nitrogen concentration of 28%–34%) on the list of COI with a STQ of 2,000 pounds.

Comment: There were several comments about AN with most commenters supporting the inclusion of AN on the COI list. Several commenters remarked on the reduced availability of AN fertilizer due to liability concerns over its use in terrorism. Commenters expressed differing opinions on the percentage of nitrogen in AN that DHS should consider for purposes of preventing AN's use as an explosive precursor. Commenters requested clarification of the STQ and whether it applied to solid, liquid, and/or mixtures of AN.

Response: DHS revised its approach toward ammonium nitrate, as discussed above in section II(D)(3). This revised approach recognizes that AN is integral to the agriculture and explosives industries, yet also seeks to satisfy the DHS mandate to enhance the security of facilities that present a high level of risk.

5. Acetone and Urea

In proposed Appendix A, the Department included acetone and urea on the list, each with an STQ of 2,000 pounds.

Comment: The Department also received a large number of comments on acetone and urea. Commenters from a wide array of industries remarked on the important uses and widespread availability of these two chemicals. Commenters noted that, while other regulatory regimes cover acetone and urea, they typically do so for amounts lower than the proposed STQ of 2,000 pounds.

Response: The Department's initial concerns around acetone and urea centered on its potential theft and diversion for use as an explosives precursor. After considering the comments received and consulting with expert sources, including the FBI Explosives Unit and the report produced by the National Research Council, the Department does not believe that acetone and urea need to be tracked as closely the Department tracks other explosives precursors, especially concentrated hydrogen peroxide and nitric acid. The Department has removed acetone and urea from the list of Chemicals of Interest in Appendix A.

6. Chemical Weapons (CW) and Chemical Weapons Precursors (CWP)

Comment: While commenters supported the Department's reference to the Schedules of chemicals from the CWC, commenters generally noted that applying an STQ of ''any amount'' for all CWC chemicals was unnecessarily low. With the exception of Schedule 1 chemicals, which are weapons and therefore merit a relatively low STQ, commenters thought that the ''any amount'' STQ would create unreasonable compliance challenges for facilities. Commenters urged DHS to use the CWC Schedule 2 TQs for Schedule 2 CW/CWP chemicals. Commenters also remarked on the widespread commercial use of triethanolamine (a Schedule 3 chemical) in and across the chemical, personal care, and consumer products industries.

Response: The Department has replaced all ''any amount'' STQs for theft/diversion-CW/CWP chemicals with numerical quantities. The Department did not use the CWC TQs for Schedule 2 chemicals because those amounts are too high. Those higher amounts are designed to prevent the development of state-level chemical weapons programs, not to prevent acts of chemical terrorism. DHS identified the STQ for Schedule 2 chemicals (at 2.2 pounds) by identifying how much one would need of the chemical to convert it easily into a weapon using simple chemistry. DHS included triethanolamine and several other Schedule 3 chemicals in the final appendix due to the ease with which they may be weaponized.

7. Explosives

Comment: The American Pyrotechnics Association requested that DHS remove four oxidizers (ammonium perchlorate greater than 15 microns in size, potassium chlorate, potassium nitrate, and potassium perchlorate) from the list of chemicals in Appendix A. The American Pyrotechnics Association explained that, while these chemicals are used in pyrotechnic mixtures, they would neither create a highly toxic cloud nor could they be used in an explosive, flammable, or reactive manner until they were properly blended with an energetic fuel. In order to create an oxidizer and fuel bomb, one must go through extensive and difficult steps to obtain the materials and then must have the proper training to mix the chemicals in the proper ratio. In other words, terrorists would have to complete extensive measures to secure chemicals that would do very little damage. Commenters noted that neither DOT nor ATF classify the four oxidizers as explosives, and so therefore DHS should not either.

Response: DHS has considered the American Pyrotechnics Association's comments and, based on consultations with expert sources (including the FBI Explosives Unit) the Department has determined that it is still desirable to include these four oxidizers on the list of chemicals in Appendix A. DHS is including ammonium perchlorate on the list, because it is a DOT Class 1, Division 1.1 explosive that presents two security issues (see section II(C) above): theft/diversion-EXP/IEDP and release-explosive. It is at risk of theft and misuse for making explosives, and it could present a release hazard from a successful attack on a facility with a large (5,000 pounds or greater) inventory.

DHS is including the three potassium compounds (potassium chlorate, potassium nitrate, and potassium perchlorate), because they are IED precursors that warrant enhanced security. The National Research Council listed these chemicals in its report titled *Containing the Threat from Illegal Bombings: An Integrated National Strategy for Marking, Tagging, Rendering Inert, and Licensing Explosives and Their Precursors*. The FBI's Explosives Unit has validated such conclusions for DHS.

8. Hydrogen Peroxide

Comment: Given the availability of acetone, one commenter requested that DHS remove acetone from the list and retain hydrogen peroxide at 30%, if DHS was concerned about these chemicals being misused to make Triacetone Triperoxide (TATP). Commenters from the food, feed, steel, cleaning, and other industries remarked on the varied uses for commercial strength hydrogen peroxide as well as hydrogen peroxide formulations. The majority of commenters recommended that DHS adopt OSHA's and EPA's standard approach to listing hydrogen peroxide at a 52% concentration under their Process Safety Management (PSM) regulations and Risk Management Program (RMP), respectively.

Response: DHS listed hydrogen peroxide in the proposed Appendix A and continues to list it as a theft/diversion-EXP/IEDP chemical in final Appendix A because of its proven potential as an IEDP. In the final appendix, the Department listed ''hydrogen peroxide (concentration of at least 35%)'' on the list of chemicals and also set the minimum concentration for hydrogen peroxide at 35%. For a discussion of the Department's approach to hydrogen peroxide, see section II(C)(5) above.

Commenters have requested that DHS use a 52% concentration for hydrogen peroxide, which they assert would be consistent with certain OSHA and EPA standards. While DHS understands industry's preference for consistent rules across federal agencies, DHS notes that DHS's mandate is distinct from other federal agencies that already regulate hydrogen peroxide. Both OSHA and EPA are concerned with accidental release and/or the detonation of hydrogen peroxide and so regulating concentrations of 52% or greater is reasonable given their mandates. DHS is charged with ensuring effective security at high risk chemical facilities. The security issue around hydrogen peroxide, a common IED precursor, demanded that DHS identify the concentration at which hydrogen peroxide is potentially useful to terrorists as an IED precursor. DHS, in consultation with the FBI, has determined that concentration to be at or above 35%. In any event, setting the Appendix A concentration at 35% for triggering the Top-Screen requirements in no way precludes any facility from meeting OSHA or EPA standards.

B. Coverage of Appendix A

1. Colleges and Universities

Comment: Colleges, universities, and university medical centers; associations that represent these institutions; and individuals associated with such institutions requested that DHS exempt these institutions or modify the rule to address the use of chemicals of interest at these institutions. Many colleges and universities endorsed the comments of the Campus Safety Health and Environmental Management Association (CSHEMA), which asserted that chemicals of interest do not pose a significant risk when they are widely dispersed in many locations, and in extremely small quantities per location, as is typical with colleges and universities. CSHEMA contended that DHS must not have intended to include colleges and universities given DHS's estimate of the number of affected facilities. CSHEMA also asserted that Appendix A imposes a heavy burden on colleges and universities and that the task of submitting a Top-Screen will be onerous for colleges and universities; in particular CSHEMA asserts that the time and cost burden of complying with the Top-Screen requirement will be exponentially higher than that which DHS estimated. CSHEMA made several recommendations; namely, that DHS replace all ''any amount'' STQs with a numeric quantity (CSHEMA suggested a minimum STQ of 100 pounds). CSHEMA also recommended that DHS exclude chemicals in containers of one pound or less and that DHS create a per-laboratory STQ.

Other commenters provided similar comments. They explained that Appendix A includes numerous chemicals of interest that are found or synthesized at colleges and universities in amounts that exceed the ''any amount'' STQs. As a result, nearly all colleges, universities, and university hospitals would be required to complete and submit a Top-Screen. Because COI in extremely small quantities (typically milligram or gram quantities per container) are widely dispersed in many locations throughout universities, the commenters believe that these facilities pose no significant security risk. Commenters were also concerned that, while no one location on campus might exceed a threshold, the campus or university as a whole (particularly since there might be multiple campuses), might exceed an STQ. Commenters suggested that DHS provide an exemption, as does OSHA and EPA regulations, for laboratories that use small quantities of hazardous materials.

Many college and universities described the security procedures that they currently have in place and stated that such procedures are adequate to protect against the security risks that they face. They asserted that it would impose significant burdens to exceed these measures. For example, while they currently do some chemical tracking, they believe that identifying and tracking very small amounts of chemicals for Appendix A purposes would impose a substantial new burden. Furthermore, they did not think that the risk posed by these quantities justifies the substantial burden that tracking would impose. Others maintained that, while locations can be secured, other security measures contained in the Site Security Plans would be antithetical to institutions of higher learning.

As an alternative to seeking an exemption from the regulation for colleges and universities, commenters made a variety of other suggestions. A few commenters urged DHS to adopt different STQs or to exclude chemicals of interest that are used in laboratories at colleges and universities. They recommended that DHS replace ''any amount'' with numeric threshold quantities and that DHS base those quantities on amounts used by other federal agencies. Other commenters proposed a per container limit for COI, similar to what the EPA uses for its Spill Prevention Control and Countermeasure regulations. *See* 40 CFR part 112. As noted above, CHSEMA proposed a one pound limit per container. Commenters also recommended DHS only regulate pure chemicals, explaining that a chemical that is part of a commercial product, formulation, or dilute solution should not be a COI.

Response: Facilities that possess any of the chemicals listed in Appendix A at or above the STQ for any applicable security issue must complete and submit a Top-Screen. *See* § 27.200(b)(2) and § 27.210(a)(1)(i). Accordingly, the Department expects that all facilities, including colleges and universities, that possess such chemicals will complete and submit a Top-Screen. Because the need to do a Top-Screen is driven by the possession of chemicals, not the location of the chemicals, DHS can not simply exempt chemicals located at colleges and universities. In addition, the Department notes that existing federal regulatory schemes (e.g., those of the Centers for Disease Control and Prevention (CDC), Drug Enforcement Agency (DEA), and CWC) do not exempt colleges, universities, and university medical centers from their chemical-related regulatory programs.

Furthermore, given the apparent current state of security at academic institutions, DHS believes that exclusion of colleges and universities is not warranted. Based on the comments DHS received from colleges and universities, the Department understands that security varies dramatically across academic institutions. Representatives of the academic community acknowledged that they possess chemicals of interest. While some adhere to broad security strategies, others admitted having an incomplete or non-existent inventory of the contents and quantities of chemicals and no affordable or timely means of compiling an inventory.

While the requirements of Appendix A will continue to apply to academic institutions, there are several revisions to Appendix A, many of which should allay the concerns of academic institutions. First, DHS is providing colleges and universities with the option to request an extension of time to complete and submit their Top-Screens following the publication of a final Appendix A. The president, dean, provost, or other senior official at a college or university may request an extension from the Assistant Secretary for Infrastructure Protection, and DHS may grant that request for up to 60 additional calendar days following the publication of final Appendix A.

Second, as discussed throughout this final rule, the Department has removed various chemicals from the list. Of note to academic institutions, the Department has removed acetone. Similarly, the Department has adjusted STQs for chemicals. The Department has assigned numeric quantities to all of the previous ''any amount'' STQs. Of note to academic institutions, DHS has changed the STQ for triethanolamine (a theft/diversion-CW/CWP chemical) from ''any amount'' to 220 pounds.

Third, the Department has added an exclusion for facilities that possess laboratory quantities of release-toxic, release-flammable, and release-explosive chemicals. *See* § 27.203(b)(2). This tracks the exemption that EPA uses in its RMP program. Note, however, that while a facility need not count laboratory quantities of release chemicals of interest toward the facility's STQ, a facility must still count laboratory quantities of theft/diversion and sabotage/contamination chemicals of interest toward the facility's STQ.

Fourth, all facilities, including colleges and universities, have flexibility in defining the boundaries of their facility and identifying the party at their institution that is responsible for compliance.[60] The requirements of part 27 are facility-specific. As such, an institution of higher learning can, if appropriate, submit a Top-Screen on a building-to-building basis or a campus-wide basis. This is comparable to the situation for owners or operators of a multi-unit enterprise. *See* 72 FR 17688, 17697.

Fifth, even if academic institutions get screened into this regulatory program (*i.e.*, they complete the Top-Screen, DHS classifies them as a high-risk facility, and they have to develop and implement SVAs and SSPs), the academic institutions may well have security measures in place that will help them meet the applicable risk-based performance standards. *See* § 27.230 (indicating that a facility must select, develop in their SSP, and implement appropriately risk-based measures designed to satisfy the risk-based performance standards listed in § 27.230(a)(1)–(19)). In that case, the additional burden of complying with this regulation would consist of either creating a CSAT SSP or referencing measures in an existing security plan by way of an Alternate Security Program (ASP). *See* § 27.235 ''Alternative Security Program.'' Colleges and universities may benefit from working together to develop an ASP template specifically tailored to the research environment in an academic setting.

2. Medical Research Organizations and Similar Laboratories

Comment: The assertions in the comments from medical research institutes and other similar laboratories largely resembled those of the colleges

[60] Part 27 defines a ''chemical facility or facility'' as ''any facility that possesses or plans to possess, at any relevant point in time, a quantity of a chemical substance determined by the Secretary to be potentially dangerous or that meets other risk-related criterion identified by the Department. As used herein, the term chemical facility or facility shall also refer to the owner or operator of the chemical facility. Where multiple owners and/or operators function within a common infrastructure or within a single fenced area, the Assistant Secretary may determine that such owners and/or operators constitute a single chemical facility or multiple chemical facilities depending on the circumstances.'' *See* § 27.100.

As noted in the preamble to the IFR, DHS believes that it will generally be straightforward for facilities to define their boundaries and identify the party (at their facility) responsible for compliance with the regulation. DHS acknowledges that, in some circumstances, the issue might be more complex. The Department will address those situations on a case-by-case basis. *See* 72 FR 17697. In addition, as indicated in the definition of ''chemical facility,'' the Assistant Secretary has the authority, where necessary, to make a determination about the operations at given facility or facilities. The Assistant Secretary may make the determination that a facility is a single chemical facility or multiple chemical facilities.

and universities. These comments came not only from medical research institutes but from non-production, non-diagnostic research laboratories; ancillary facilities at non-profit, non-commercial research organizations; operators of pharmaceutical laboratories; and companies that conduct research as a part of their business (*e.g.*, industrial or food processing research and development laboratories, environmental testing labs, and testing or monitoring facilities).

They argued that their institutions are not ''high risk chemical facilities.'' They also claimed that they use COI in the same way that colleges and universities do—that is, they have large numbers of chemicals and reagents in very small quantities, in small containers, and at multiple locations within a facility. In addition, they asserted that they did not comment on the Advance Notice of Rulemaking, because they did not believe that rule would cover them. Pharmaceutical research facilities asserted these security efforts would be very burdensome and would divert a large amount of time and resources away from their critical, life-saving research.

Several of those commenters expressed concern about the ''any amount'' threshold. Those commenters included individuals and entities that conduct field calibration for pipelines and operations, operate compliance labs, sterilize instruments, and conduct blood or tissue test. A few commenters pointed out that the ''any amount'' threshold would mean that entities like clinics and dental offices would have to submit Top-Screens.

Commenters requested that DHS exempt their laboratories or operations from the rule. In the alternative, the commenters requested other forms of relief, such as replacing the ''any amount'' STQ for common laboratory chemicals with a STQ of 10 pounds per storage location or 100 pounds per building; establishing a per container limit of 1 pound; setting higher levels for ubiquitous substances (such as acetone and triethanolamine); or defining a facility to include a storage location.

Response: DHS directs readers to the response provided for colleges and universities, as that response is directly applicable to these comments by medical research institutes and other similar laboratories. The requirement to complete the Top-Screen is driven by the possession of certain chemicals in specified quantities, and DHS does not agree that the nature of a facility's operation alone warrants an exclusion. As such, the Department expects that medical research institutes and like institutions that possess any of the chemicals listed in Appendix A at or above the STQ for any applicable security issue will complete and submit a Top-Screen. *See* § 27.200(b)(2) and § 27.210(a)(1)(i). DHS also directs readers to the discussion of revisions to Appendix A, which is provided in the response to colleges and universities. Those revisions should address many of the concerns of medical research institutes and like institutions.

3. Farms and the Agricultural Industry; Fumigation Industry

Comment: Several commenters, including farmers and other agricultural users of chemicals, asserted that they should be exempt from this rule, explaining that they extensively use chemicals like acrolein, ammonium nitrate (nitrogen concentration of 28%–34%), and sodium chlorate. Because farmers use these chemicals on farms for agricultural purposes, and often do so in remote and rural locations, commenters did not think that these chemicals raised any security concerns. Other commenters expressed concern that if DHS made exceptions for certain facilities (especially in the agricultural industry), loopholes would emerge and companies would exploit those loopholes in order to gain a financial edge.

Several commenters asserted that DHS should exempt urea fertilizer, because it is widely-used. Another commenter requested that DHS work with agricultural producer groups in order to find appropriate ways to regulate commonly-used nitrogen fertilizers such as ammonia solutions, anhydrous ammonia, and urea. Commenters believed that the potential hazard or risk posed by these chemicals, particularly in a rural farm setting, is minimal and should not trigger the regulation of farms as ''chemical facilities.'' Yet other commenters agreed that DHS should exempt urea but for a different reason; they asserted that chemicals that are already highly regulated may not need the additional requirements of this rule, but the fact that a chemical like urea is not highly regulated supports the argument that the chemical by itself is not harmful.

Commenters from the fumigation industry pointed out that DHS security regulation of chemicals (such as methyl bromide, chloropicrin, and sulfuryl fluoride) is unnecessary, since these substances are commonly used in the fumigation industry and already regulated under other federal regulatory schemes. In addition, commenters pointed out that there are licensing and control standards for these substances. Moreover, these chemicals are usually kept in small amounts in small containers under secure conditions by people who are licensed.

Response: Pursuant to the authorizing legislation for part 27, the Department has exempted select facilities from this regulation. *See* Section 550(a) and § 27.110(b). Commenters to both the Advance Notice and to Appendix A requested that DHS exempt additional facilities and industries, such as universities, medical research institutes, and farms. Consistent with its position in the IFR, DHS has not provided any additional regulatory text exemptions. *See* 67 FR 17688, 17699.

There are risks with facilities possessing certain amounts of certain chemicals, and the Department is seeking to address these risks under its new authority in Section 550. This extends to all facilities that present high levels of security risk and possess chemicals that may be of interest to terrorists. Moreover, these risks are associated with the characteristics and quantity of the chemical, rather than the business or activity associated with the industry or facility. As such, it would not be appropriate for DHS to exempt, by regulation, entire types of activities or industries.

Nevertheless, the Department realizes the commercial importance of Appendix A chemicals of interest and does not seek to undermine their legitimate production, use, and/or sale. To that end, the Department has made numerous changes to the appendix and discusses them in section II of this preamble. In short, DHS has clearly identified the security issue(s) associated with each chemical, removed the ''any amount'' STQs,[61] removed chemicals (including acetone and urea), and developed a specialized approach for certain chemicals (including propane and AN). In addition, as discussed in the relevant sections above, DHS notes that it removed methyl bromide and chloropicrin from the list of chemicals in Appendix A.

4. Overlap With Other Federal Entities

Comment: Many commenters expressed concern that the new rule creates regulatory redundancy. They indicated that numerous federal agencies, including ATF, DOT, DOJ, EPA, OSHA, TSA, and USCG, already have regulations on the identified chemicals and that some of these agencies heavily regulate companies that deal with chemicals. Commenters explained that companies that store and

[61] *See* footnote 64.

transport these materials must conduct a comprehensive risk and vulnerability assessment based on storage prior to transport, personnel security, unauthorized access, and en route security. Commenters indicated that they would like to see consistency and cooperation between agencies.

Commenters argued that DHS should remove chemicals that are already regulated by other federal agencies and pointed to several examples. Commenters asserted that the EPA, through the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, and DOT regulates chemicals such as methyl bromide, chloropicrin, and sulfuryl fluoride. Other commenters asserted that the EPA, through the Emergency Planning and Community Right to Know Act, 42 U.S.C.11011 *et seq.*, and the Occupational Safety and Health Administration regulate hydrogen peroxide (concentration of at least 30%). And yet other commenters pointed out that DOT regulates propane; DOT, along with EPA, regulates phosphine; and the DOC regulates triethanolamine under its Chemical Weapons Convention (CWC) regulations.

Other commenters recommended that DHS exempt facilities that are regulated by other federal agencies. Specifically, commenters requested exemptions for facilities that have already complied with EPA's Risk Management Program; natural gas pipelines and utility facilities that DOT's Pipeline and Hazardous Materials Administration (PHMSA) regulates; and facilities that have been screened out of the Maritime Transportation Security Act (MTSA) (*e.g.*, offshore oil and gas facilities). Commenters asserted that the EPA RMP regulations, PHMSA pipeline and U.S. Coast Guard MTSA regulations assess facilities with similar criteria (*i.e.*, potential risk to the public, the environment, and economic health) and therefore thought that DHS efforts would be redundant and a waste of resources. Many small businesses commented that it would be difficult for them to keep up with part 27 and other federal regulations, especially since TQs and STQs vary between agencies.

Several commenters suggested that DHS should set its STQs consistent with those of other federal agencies or regulatory programs (*e.g.*, OSHA, EPA, DOC). Commenters most frequently recommended that DHS use EPA RMP TQs and either substitute them categorically for all STQs or at least for the proposed ''any amount'' STQs. One commenter recommended that a chemical of interest that is also an extremely hazardous substance under EPA's Emergency Planning and Notification regulations at 40 CFR part 355 should have an STQ no lower than its threshold planning quantity.

With respect to explosives, commenters pointed out that the explosives industry is already heavily regulated by DOT, the Department of Justice (DOJ), and ATF and is subject to risk assessments. Commenters believe the DHS efforts would be redundant and excessive for a low-threat industry. By contrast, another commenter suggested that DHS expand the list of COI to incorporate those substances regulated by the ATF. The commenter stated that explosives present security risks beyond manufacturing (such as transportation, end storage, and potential theft) that need to be taken into account.

Response: The Department recognizes that multiple federal entities regulate matters related to chemicals. In the Advance Notice to part 27, the Department discussed pre-existing chemical security and safety programs, such as those of the USCG, EPA, OSHA, and ATF. The Department notes, however, that each entity regulates chemicals for distinct reasons. Congress has given each entity a different mandate, and so each entity must satisfy its mandate. For example, OSHA is concerned with, inter alia, the protection of employees that use certain chemicals in the workplace. DOT is concerned with the safe and secure transportation of hazardous materials. EPA, through its RMP program, is concerned with preventing an accidental release of certain chemicals. DHS, however, is concerned with the security implications of facilities possessing these chemicals. Congress has given DHS explicit authority to regulate security at chemical facilities.

To the extent there is overlap in the jurisdiction and efforts of multiple federal entities, DHS will work with those entities to coordinate efforts. Within DHS, the Department has already undertaken steps among headquarters and component offices (*e.g.*, USCG, DHS Office of Infrastructure Protection/Chemical Security Compliance Division (CSCD), and TSA) to coordinate the application and enforcement of regulatory programs related to chemical security. There are liaison positions within CSCD for individuals from other DHS offices and components. In addition, DHS has developed informal and formal working groups to coordinate Departmental regulatory authorities in the chemical sector. With respect to federal entities outside of DHS, the Department will consider the necessity of various formalized arrangements, such as an inter-agency coordination process to resolve jurisdictional questions or conflicts, as this regulatory program develops.

Despite the differing mandates between federal agencies that regulate chemicals, the Department has looked to the regulatory programs of these other federal agencies for guidance and direction. The Department found great value in considering a number of these regulatory programs, including those of the ATF, DOC, Department of Energy (DOE), DOT, EPA, and OSHA. In fact, the Department references, uses, and cites many of these regulations in this rule.

With respect to offshore oil and gas facilities, as discussed in the IFR at 72 FR 17699, the Department notes that the statute (Section 550) and the regulation (§ 27.110(b)) exempt facilities regulated pursuant to MTSA.

5. Concerns About Being Over-Inclusive

Section 27.105 defines a chemical facility as an establishment that ''possesses or plans to possess, at any relevant point in time, a quantity of a chemical substance determined by the Secretary to be potentially dangerous or that meets other risk-related criteria identified by the Department.''

Comment: Numerous commenters stated that this definition of a ''chemical facility,'' along with the chemicals and STQs listed in proposed Appendix A, will capture far more facilities than Congress originally intended. Commenters were concerned that these facilities, which they did not consider high risk facilities, would need to complete and submit a Top-Screen because of the proposed COI and STQs. For example, 105 of the 331 chemicals on the proposed list have a STQ with no ''de minimis'' quantity (i.e., an STQ of ''any amount.''). Among those listed are many common chemicals (e.g., carbon monoxide) that can be found in many low risk facilities. As a result of the proposed list of COI and STQs, the rule would end up covering many entities that would not expect to be covered, such as rural schools, summer camps, universities, research facilities, farms, agricultural retailers, grocery stores, fumigators, and residential homes.

Commenters asserted that if DHS did not alter its definition of chemical facility, the chemicals in the COI list, and the STQs on the COI list, DHS would receive a drastically larger number of Top-Screens (than the 40,000 Top-Screens, which DHS estimated in regulatory evaluation for the IFR). Commenters argued that the number of Top-Screens would be as high as hundreds of thousands, perhaps even millions. Commenters believe this will bog down the review process, use too many resources on low risk facilities, and become counter-productive in the attempt to secure the homeland.

Commenters were also concerned that if entities which did not expect to be included (e.g., farmers, small business owners, or home owners) are, in fact, included in Appendix A and expected to complete the Top-Screen, those entities will not know of the requirement and not comply, thereby incurring possible penalties and other consequences (e.g., filing fees, costs associated with hiring DHS compliance consultants).

Response: In part 27, the Department classifies chemical facilities as high risk based on the presence of chemicals that may be an attractive target for terrorists. DHS has identified security issue(s) for each chemical, and that security issue is associated with the characteristics and quantity of the chemical. If a facility possesses that chemical at the specified amount, the Department expects that the facility will complete a Top-Screen.

While the Department has not narrowed its definition of ''chemical facility,'' [62] the Department has refined the list of chemicals, as well as the parameters for including chemicals. *See* section II of the preamble. Among the changes, DHS established many new STQs, eliminated the ''any amount'' STQ, and has included new calculation provisions. The Department expects that these changes will effectively exclude most farmers, home owners, and small businesses from the Top-Screen process. The Department believes that its estimate regarding entities that will complete the Top-Screen continues to be accurate.

In addition, the Department is providing some clarification on the coverage of truck terminals. The Department is taking the same approach toward truck terminals that it has taken toward railroad facilities. *See* 72 FR 17698–17699. DHS presently does not plan to screen truck terminals for inclusion in the Section 550 regulatory program, and therefore DHS will not request that owners and operators of truck terminals complete the Top-Screen risk assessment methodology. DHS and its components, including TSA, have concurrent and overlapping jurisdiction with respect to certain aspects of chemical security. DHS is working, and will continue to work, to address this overlapping jurisdiction and to determine whether it would want to include trucking terminals in its chemical security program. As with railroad facilities, DHS may, in the future re-evaluate the coverage of trucking terminals. DHS would do so by issuing a rulemaking considering the matter.

Finally, in response to commenters who indicate that there may be a lack of awareness about these requirements, the Department notes that publication of a document in the **Federal Register** is official notice of a document's existence and its contents to those parties that may be subject to it or affected by it. In this case, the IFR and this final rule puts all affected parties on notice that they must comply with the terms of part 27. Despite this fact, the Department has undertaken outreach efforts since the publication of this IFR and will continue to do so.

C. Screening Threshold Quantities

1. In General

Comment: There were many comments about the STQs assigned to the chemicals in the list. The majority of commenters recommended that DHS increase the STQs, arguing that the proposed STQs were too low. Commenters asserted that DHS should significantly increase the STQs to relieve the burden on very low risk facilities. Other commenters argued that low STQs for common, widely-used chemicals will impose a huge burden on industry overall as well as a burden on small entities that make small amounts of several, different chemicals. By contrast, only one individual commenter recommended a downward STQ adjustment (for chlorine).

Response: The Department has revised its approach to Appendix A, including substantial changes to the STQs. The changes are discussed in depth above in section II(C).

Comment: Some individuals noted that a particular site or facility might have several locations where there is a small quantity of a COI, but in the aggregate the site could have more than an STQ. The commenters asked whether the threshold amount should be applied to the entire site, even if the different locations within the site are widely separated from one another. Another commenter thought that DHS should clarify its definition of STQ to include ''all sources of a given chemical from a given facility, not just single sources with quantities that exceed STQs.''

Response: As DHS discussed in the comment response about colleges and universities, facilities have flexibility to define their boundaries and identify the party (or parties) at their institution that is responsible for compliance. The requirements of part 27 are facility-specific.

Comment: A commenter suggested that, because of varying uses or toxicity, DHS list STQs in smaller units of measures (i.e., grams) in addition to pounds.

Response: Where appropriate, the Department has listed STQs in units other than pounds. For example, the Department lists the cumulative STQ for specified theft/diversion-CW/CWP chemicals at 100 grams.

2. Modifying the ''Any Amount'' STQ

Comment: Several commenters expressed an opinion on the ''any amount'' STQ in the proposed appendix. Many commenters urged DHS to replace the ''any amount'' STQs with numeric levels. One commenter encouraged DHS to set the thresholds at amounts that reflect what experts believe is sufficient to produce an off-site consequence to the public as a result of attack, theft, or conversion into a weapon of mass destruction.

Yet other commenters asked DHS to clarify the meaning of ''any amount.'' For example, one individual asked how a facility would know when it came into possession of ''any amount.'' Other commenters pointed out that certain COI are ingredients in many nonhazardous products, such as foods and cosmetics, and therefore thought that DHS would not have intended for those products to be subject to the rule. For example, an 8-ounce glass of whole milk contains approximately 230 milligrams of phosphorus, and yet DHS listed phosphorus as a COI with an STQ of ''any amount.''

Other commenters noted that if DHS retained the ''any amount'' STQ, every home, grocery store, and school with only a detectable amount would have to comply with the regulation. These commenters did not think that such a tiny amount of chemicals would make a viable terrorist target. Other commenters suggested that the ''any amount'' STQ would create a larger burden for both DHS and facilities that would otherwise not be affected by this rule. This, in turn, would divert limited resources away from those facilities that can actually be considered terrorist targets. A food industry commenter believed that overly expansive coverage would cause facilities in the industry to focus on chemical security compliance rather than potential threats to the food supply.

Response: The Department has removed the ''any amount STQs'' from the list, and for the vast majority of chemicals, DHS assigned a numeric

[62] For a discussion on the definition of ''chemical facility,'' see footnote 61.

quantity to the STQ for each chemical.[63] The revised STQs are geared toward the hazard and consequences associated with the chemical.

3. Mixtures and Solutions

Comment: Several individuals, entities, and organizations believed that the proposed appendix was unclear about the applicability of STQs to mixtures and solutions. Commenters argued that the concentration of a COI is the most important factor affecting potential harm. Commenters asserted that when a COI is listed in Appendix A without a percent concentration, then the STQ should apply to the weight of the pure substance, not to the weight of a mixture or solution. Alternatively, commenters suggested that DHS should establish minimum concentrations for all COI. Some commenters noted that the properties of a mixture might be significantly different from the properties of the listed COI that caused the mixture to be considered a health or security risk. One commenter suggested that DHS should exclude mixtures from the list, since most chemical mixtures do not share the same risk profile as their pure compound counterpart (e.g., acetone, cyanides, fertilizers, and gas mixtures).

Response: The Department recognizes the importance of providing guidance on mixtures, and as discussed in section II, the Department added a new regulatory section that addresses mixtures. *See* § 27.204. The Department generally disagrees with commenters who assert that chemical mixtures are not a security concern. For example, toxic chemical mixtures are a security concern given their ability to vaporize from the mixture and potentially create a toxic cloud. Similarly, certain minimum concentrations of poisonous gases, particularly the highly toxic gasses, are potential weapons even in extremely low concentrations.

D. Revisions to the COI List

1. Technical Corrections

Comment: A handful of commenters noted that DHS had duplicate entries for chemicals in proposed Appendix A. The Department listed each of the four following chemicals twice, with a different STQ (''any amount'' and 2000 pounds) for each entry: (1) Phosphorus oxychloride, (2) phosphorus pentachloride, (3) phosphorus trichloride, and (4) thionyl chloride.

In addition, the Department listed each of the following three chemicals twice by listing the chemical under two synonymous names: (1) Calcium dithionite and calcium hydrosulfite, (2) sodium dithionite and sodium hydrosulfite, and (3) zinc dithionite and zinc hydrosulfite. The Department not only listed each of the following two chemicals twice by listing the chemical under two synonymous names, but also listed a different STQ under each name: (1) Hydrogen cyanide (any amount) and hydrocyanic acid (1,875 pounds), and (2) carbonyl sulfide (any amount) and carbon oxysulfide (7,500 pounds).

Commenters noted that Appendix A listed incorrect CAS numbers for the following six chemicals: hexyltrichlorosilane, sodium phosphide, hexotonal, chromium oxychloride, diethyl phosphate, and dimethyl phosphate.

Response: The Department appreciates the input from commenters on chemical names and CAS numbers. The Department used that information to ensure the accuracy of Appendix A. To that end, the Department has removed and revised duplicate entries, corrected CAS numbers, and added a column to the appendix containing commonly-used synonyms for certain chemicals of interest.

2. Formatting and Approach

Comment: A few commenters recommended that DHS parallel the DOT hazard class approach in classifying and listing chemicals. The Institute of Makers of Explosives (IME) made this suggestion in the context of explosives. To illustrate their point, the IME provided examples of chemicals in the same hazard class as several COI included in the Department's chemical-by-chemical approach.

Response: As noted in the IFR, DHS's primary approach in this appendix is through the association of individual chemicals with specific security issues. While DHS will not preclude the use of hazard classes for other purposes (e.g., in the risk-based performance standard guidelines), DHS is not using the DOT hazard class approach at this point in time.

Comment: One commenter suggested that DHS add the following generic ''Not Otherwise Specified'' (N.O.S.) chemicals to the COI list: Poison Gas, N.O.S.; Flammable Gas, N.O.S.; Flammable Liquid, N.O.S.; Spontaneous Combustible Liquid, N.O.S.; Organic Peroxide, N.O.S.; Poison Inhalation Hazard, N.O.S. The commenter suggested that DHS assign large STQ values to these N.O.S. chemicals.

Response: For the reasons discussed above in sections II(C)(2) and II(C)(4), the Department is not using the DOT approach of categorizing chemicals,[64] and so DHS has not included N.O.S. chemicals on the COI list.[65] Instead, DHS has included chemicals on the COI list if they are uniquely identifiable. The Department, of course, retains its discretion to expand the COI list to include these or other chemicals in the future, as necessary.

Comment: A commenter requested that DHS list the chemicals in CAS numerical sequence in addition to listing them in alphabetical order.

Response: At this time, the Department will not list chemicals in CAS numerical sequence. The Department has, however, re-formatted the final Appendix, making it more user-friendly.

E. Other Comments

1. Procedural Issues

Comment: Many commenters were upset that DHS did not publish Appendix A in the Advance Notice. A large number of commenters wanted the comment period for Appendix A extended for an additional 30 to 60 days. Many commenters thought that 30 days was not a sufficient amount of time to fully digest and analyze the regulations.

Response: Congress provided the Department with six months to promulgate interim final regulations on chemical security. *See* Section 550(a). The Department not only met that short deadline, but it published both an Advance Notice and IFR within that six-month period. While the Department did not include Appendix A in the Advance Notice, it nonetheless has provided the public with an opportunity to comment on the appendix.

In the IFR, the Department provided the public with 30 days to comment on proposed Appendix A. The Department was unable to extend that time period, given that the Department is seeking to facilitate the expeditious implementation of this chemical security regulatory program. Until the Department finalizes Appendix A, the

[63] for sabotage/contamination chemicals, a facility meets the STQ if it possesses A Placarded Amount—i.e., if it ships the listed chemical of interest and is required to placard the shipment of that chemical pursuant to DOT regulations at 49 CFR part 172. DOT regulations identify the amounts (such as ''any quantity'' or ''1,001 lbs or more) for which placarding is required.'' See 49 CFR 172.504.

[64] Through its Hazardous Material Table in 49 CFR 172.101, DOT regulates the transportation of hazardous materials. For each material listed, DOT identifies a hazard class, provides the proper shipping name, and specifies the applicable requirements (e.g., labeling, packaging, etc). To denote hazardous materials without a specific shipping name, DOT uses the suffix ''N.O.S.'' and a generic shipping name.

[65] The only exception is germanium tetrafluoride, which DHS discusses in section (II)(C)(4)(a) above.

Department cannot fully implement this program.

Comment: A few commenters asked that DHS incorporate procedures for changing the chemicals and STQs in Appendix A. Commenters want to be able to request that DHS delist (or remove) a chemical from Appendix A. Other commenters asked that DHS provide a 90 day comment period when adding chemicals.

Response: DHS plans to periodically update the list of chemicals in Appendix A and will do so through notice and comment. At this time, DHS is not including a petition process like that of EPA, where members of the public may petition the EPA to add or delete substances from the RMP list. *See* 40 CFR 27.120.

Comment: Commenters asked that the media be more involved in conveying information about the final rule, because they believe that there are many smaller businesses that are potentially affected and yet are not aware of these new standards. Commenters are concerned that individuals and businesses could face severe financial penalties or unfair prosecution if they lack a full understanding of the rule and fail to comply.

Response: The Department recognizes the need for ongoing and expanded outreach on this regulatory program, and the Department has already initiated such outreach. For example, the Department began participating in conferences soon after the effective date of part 27 (e.g., the American Chemistry Council's ChemSecure Security Conference and Expo from April 17–19, 2007). The Department has also supported other events, such as the 2007 Chemical Sector Security Summit on June 11–13, 2007, which was convened by the Chemical Sector Coordinating Council.[66] In addition, the Department provides informative and up-to-date resources about part 27 on its Web site (*http://www.dhs.gov/chemicalsecurity*). The Department is interested in collaborating with private and public stakeholders, as well as the media, in the interest of promoting a full understanding of, and effective compliance with, part 27.

2. Compliance Issues

Comment: Several commenters asked DHS for clarification on identifying the responsible party for submitting information through the Top-Screen. One commenter asked who, if anyone, is responsible to submit a Top-Screen, in each of the following three scenarios: (1) If an American company buys a COI from one country and ships it directly to another country without ever possessing it; (2) If an American company buys a COI from a foreign nation and temporarily stores it for resale to another USA or Canadian company; and, (3) If an American company buys a COI above the threshold limit from an overseas producer and sells it to another USA company without ever handling it in their facility.

Response: Part 27 applies to facilities located in the U.S. All facilities located in the U.S., including both domestic and foreign companies, that possess chemicals at the applicable STQ must complete and submit a Top-Screen. The converse is that a facility which does not operate in the U.S. and never possesses chemicals in the U.S., even if it is a U.S. company, does not have to complete and submit a Top-Screen.

An American company that purchases chemicals of interest from one foreign country and ships it to another foreign country, without ever possessing the chemical in the U.S. does not need to complete and submit a Top-Screen. Any company, whether domestic or foreign, that stores chemicals of interest in the U.S. in quantities that at any time meet or exceed the STQ must complete and submit a Top-Screen. The Department realizes there are numerous, complicated business arrangements. Where a facility is unsure about its responsibility for compliance, the facility should consult with the Department pursuant to § 27.120, and the Department can work with the facility to resolve those issues.

Comment: Other commenters raised concerns about third party responsibility. Commenters wanted to know who was responsible for complying with part 27 if a company or individual relies upon a third party to store and secure an Appendix A chemical above the STQ. There was also confusion over third party contractors/vendors who temporarily store COI on-site while completing a job. Commenters explained that the challenge is to determine who completes and submits, and how often, a Top-Screen for a temporary tank. Storage of COI may be temporary or transient in nature, which creates confusion about how to apply the definition of facility to COI. A few commenters asked if a landlord is responsible for ensuring compliance with DHS regulations if their tenant company leases a warehouse and stores a COI above its allotted threshold.

Response: Whether a landlord or tenant is responsible for submitting a Top-Screen will depend on which party is responsible for security of the chemical. The party responsible for the security of the chemical is responsible for submitting the Top-Screen. This may vary depending on the operational and/or contractual relationship between the parties.

Comment: A few commenters suggested that, in determining whether a facility possesses the chemicals in Appendix A at the quantities that trigger a Top-Screen, DHS should not include quantities of a chemical of interest that a facility is using or processing on-site. In some cases, a process might create a chemical of interest but not result in the storage of that chemical of interest. For example, carbon monoxide produced during combustion is transitory, and sulfur dioxide and sulfur trioxide are created and consumed during flue gas conditioning.

Response: A facility shall calculate the STQ for release-toxic chemicals, such as sulfur trioxide, based on a facility's total inventory of the chemical. The Department has added clarity to this issue, by adding calculation provisions for each security issue. Section § 27.203(b)(1)(iii), in particular, provides that facilities shall include in their release STQ chemicals of interest that are present as process intermediates, by-products, or materials produced incidental to the production of a product. The Department notes that it no longer includes carbon monoxide on the list of chemicals in Appendix A.

Comment: Commenters asked whether a facility, after not having a COI for an extended period of time, would have to re-submit a Top-Screen if the facility obtained a COI above the STQ.

Response: Under § 27.210(a)(1)(i), a facility that possesses any of the chemicals listed in Appendix A at or above the corresponding STQs must complete and submit a Top-Screen within 60 calendar days of the effective date of this final rule. In addition, a facility that *comes into possession* of any of the chemicals in Appendix A at the listed STQs must complete and submit a Top-Screen within 60 calendar days of coming into possession of the chemicals (emphasis added).

Comment: Commenters suggested that DHS establish a ''holding-time'' threshold for chemicals, with time frames including 30 days and 60 days. Some commenters suggested an exemption for facilities that possess chemicals only for short periods of time.

Response: DHS has not established a ''holding-time'' threshold for chemicals. If terrorists have a reason to know that

[66] For information on the conference, see *http://www.dhs.gov/xprevprot/programs/gc_1176736485793.shtm*

an attractive chemical is present at a facility, the duration for which it is present is largely irrelevant. As a result, a facility must submit and complete a Top-Screen if it possesses chemicals of interest in a quantity that at any time meets the STQ.

3. Miscellaneous

Comment: One commenter was concerned that there was a lack of information describing the tier-based risk assessments. Another commenter indicated that they were unable to submit comprehensive comments, because DHS has not established criteria and performance standards for determining risk-based tiers.

Response: Although these comments are outside the scope of the rulemaking, the Department provides a response, in the hopes of promoting a fuller understanding of part 27. The Department is preparing a comprehensive guidance document that provides detailed explanations for the requirements by tier. The Department will make this guidance document available to facilities that have a need to know the information.

Comment: Commenters expressed concerns about the financial impact of these new regulations on the American economy. Some feel that the regulations would impose a larger financial burden on U.S.-based companies, giving foreign companies an advantage. One commenter, in particular, was concerned that there will be an undue economic burden on local businesses if DHS requires background checks for any level of facility. This, in turn, could lead to non-compliance.

A few commenters requested that DHS establish and publish qualifications for reviewers [67] and that DHS require reviewers to register with CSAT. Other commenters noted that the EPA and other agencies release operating information to the public; they thought that DHS, however, should, for security reasons, maintain as classified the information that it collects because of part 27. Another commenter, after noting that registration is only internet-based, requested that paper registration be made available for areas that do not have public internet access.

One commenter was concerned that the Chemical Security Regulatory Task Force, which consists of five trained individuals, would not be able to guide the thousands of facilities seeking guidance on these regulations. A few commenters were concerned about DHS's ability to process information requests quickly enough so that requesting companies would not be denied or penalized as a result.

A commenter recommended that DHS replace the open-ended questions in the Top-Screen (which asks for the value of products shipped from facilities) with a pull down menu listing ranges of values. The commenter thought that this would help incorporate the smaller sites that are exempt from the comparatively high thresholds for declaring and hosting inspections of chemical weapons and their precursors under the CWC.

Response: These comments are outside the scope of this rulemaking, which addresses the list of chemicals in Appendix A.

IV. Regulatory Analyses

A. Executive Order 12866: Regulatory Planning and Review

DHS prepared and placed in the docket a Regulatory Assessment addressing the economic impact of the IFR. *See* 72 FR 172688. That Regulatory Assessment is applicable to this final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is required to publish a notice of proposed rulemaking. *See* 5 U.S.C. 603(a). Because the Department was not required to publish a notice of proposed rulemaking for part 27,[68] the Department was not required to conduct a RFA analysis. Nevertheless, the Department did consider the impacts of part 27 on small entities, providing that analysis in the Regulatory Assessment for the IFR. *See* 72 FR 172688. That analysis is applicable to this final rule.

List of Subjects

Chemical security, Facilities, Incorporation by reference, Reporting and recordkeeping, Security measures.

The Final Rule

For the reasons set forth in the preamble, the Department of Homeland Security revises part 27 to Title 6, Code of Federal Regulations, to read as follows:

Title 6—Department of Homeland Security

Chapter 1—Department of Homeland Security, Office of the Secretary

PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

■ 1. The authority citation for part 27 continues to read as follows:

Authority: Pub. L. 109–295, sec. 550.

■ 2. Add the following definitions, in alphabetical order, to § 27.105, to read as follows:

§ 27.105 Definitions.

* * * * *

A Commercial Grade (ACG) shall refer to any quality or concentration of a chemical of interest offered for commercial sale that a facility uses, stores, manufactures, or ships.

A Placarded Amount (APA) shall refer to the STQ for a sabotage and contamination chemical of interest, as calculated in accordance with § 27.203(d).

* * * * *

Chemical of Interest shall refer to a chemical listed in Appendix A to part 27.

* * * * *

CUM 100g shall refer to the cumulative STQ of 100 grams for designated theft/diversion-CW/CWP chemicals and which is located in Appendix A to part 27 as the entry for the STQ and Minimum Concentration of certain theft/diversion-CW/CWP chemicals.

* * * * *

Security Issue shall refer to the type of risks associated with a given chemical. For purposes of this part, there are four main security issues:

(1) Release (including toxic, flammable, and explosive);

(2)Theft and diversion (including chemical weapons and chemical weapons precursors, weapons of mass effect, and explosives and improvised explosive device precursors),

(3) Sabotage and contamination, and

(4) Critical to government mission and national economy.

* * * * *

■ 3. Amend § 27.200 by revising paragraph (b)(2) to read as follows:

§ 27.200 Information regarding security risk for a chemical facility.

* * * * *

(b) * * *

(2) A facility must complete and submit a Top-Screen in accordance with the schedule provided in § 27.210, the calculation provisions in § 27.203, and

[67] A facility has the option of designating a reviewer for its facility. A reviewer is an individual who can review, but not enter, edit, or submit, information in the CSAT system. A facility can add a reviewer any time after the CSAT User Registration process.

[68] By directing the Secretary to issue ''interim final regulations,'' Congress authorized the Secretary to proceed without the traditional notice-and-comment required by the Administrative Procedure Act. *See* 71 FR 78276.

the minimum concentration provisions in § 27.204 if it possesses any of the chemicals listed in Appendix A to this part at or above the STQ for any applicable Security Issue.

* * * * *

■ 4. Add § 27.203 to read as follows:

§ 27.203 Calculating the screening threshold quantity by security issue.

(a) *General.* In calculating whether a facility possesses a chemical of interest that meets the STQ for any security issue, a facility need not include chemicals of interest:

(1) Used as a structural component;

(2) Used as products for routine janitorial maintenance;

(3) Contained in food, drugs, cosmetics, or other personal items used by employees;

(4) In process water or non-contact cooling water as drawn from environment or municipal sources;

(5) In air either as compressed air or as part of combustion;

(6) Contained in articles, as defined in 40 CFR 68.3;

(7) In solid waste (including hazardous waste) regulated under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et. seq.,* except for the waste described in 40 CFR 261.33;

(8) in naturally occurring hydrocarbon mixtures prior to entry of the mixture into a natural gas processing plant or a petroleum refining process unit. Naturally occurring hydrocarbon mixtures include condensate, crude oil, field gas, and produced water as defined in 40 CFR 68.3.

(b) *Release Chemicals.*—(1) *Release-Toxic, Release-Flammable, and Release-Explosive Chemicals.* Except as provided in paragraphs (b)(2) and (b)(3), in calculating whether a facility possesses an amount that meets the STQ for release chemicals of interest, the facility shall only include release chemicals of interest:

(i) In a vessel as defined in 40 CFR 68.3, in a underground storage facility, or stored in a magazine as defined in 27 CFR 555.11;

(ii) In transportation containers used for storage not incident to transportation, including transportation containers connected to equipment at a facility for loading or unloading and transportation containers detached from the motive power that delivered the container to the facility;

(iii) Present as process intermediates, by-products, or materials produced incidental to the production of a product if they exist at any given time;

(iv) In natural gas or liquefied natural gas stored in peak shaving facilities; and

(v) In gasoline, diesel, kerosene or jet fuel (including fuels that have flammability hazard ratings of 1, 2, 3, or 4, as determined by using National Fire Protection Association (NFPA) 704: Standard System for the Identification of the Hazards of Materials for Emergency Response [2007 ed.], which is incorporated by reference at 27.204(a)(2)) stored in aboveground tank farms, including tank farms that are part of pipeline systems;

(2) Release-Toxic, Release-Flammable, and Release-Explosive Chemicals. Except as provided in paragraph (c)(2)(i), in calculating whether a facility possesses an amount that meets the STQ for release-toxic, release-flammable, and release-explosive chemicals, a facility need not include release-toxic, release-flammable, or release-explosive chemicals of interest that a facility manufactures, processes or uses in a laboratory at the facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3.

(i) This exemption does not apply to specialty chemical production; manufacture, processing, or use of substances in pilot plant scale operations; or activities, including research and development, involving chemicals of interest conducted outside the laboratory.

(ii) [Reserved]

(3) Propane. In calculating whether a facility possesses an amount that meets the STQ for propane, a facility need not include propane in tanks of 10,000 pounds or less.

(c) *Theft and Diversion Chemicals.* In calculating whether a facility possesses an amount of a theft/diversion chemical of interest that meets the STQ, the facility shall only include theft/diversion chemicals of interest in a transportation packaging, as defined in 49 CFR 171.8. Where a theft/diversion-Chemical Weapons (CW) chemical is designated by ''CUM 100g,'' a facility shall total the quantity of all such designated chemicals in its possession to determine whether the facility possesses theft/diversion-CW chemicals that meet or exceed the STQ of 100 grams.

(d) *Sabotage and Contamination Chemicals.* A facility meets the STQ for a sabotage/contamination chemical of interest if it ships the chemical and is required to placard the shipment of that chemical pursuant to the provisions of subpart F of 49 CFR part 172.

■ 5. Add § 27.204 to read as follows:

§ 27.204 Minimum concentration by security issue.

(a) *Release Chemicals*—(1) *Release-Toxic Chemicals.* If a release-toxic chemical of interest is present in a mixture, and the concentration of the chemical is equal to or greater than one percent (1%) by weight, the facility shall count the amount of the chemical of interest in the mixture toward the STQ. If a release-toxic chemical of interest is present in a mixture, and the concentration of the chemical is less than one percent (1%) by weight of the mixture, the facility need not count the amount of that chemical in the mixture in determining whether the facility possesses the STQ. Except for oleum, if the concentration of the chemical of interest in the mixture is one percent (1%) or greater by weight, but the facility can demonstrate that the partial pressure of the regulated substance in the mixture (solution) under handling or storage conditions in any portion of the process is less than 10 millimeters of mercury (mm Hg), the amount of the substance in the mixture in that portion of a vessel need not be considered when determining the STQ. The facility shall document this partial pressure measurement or estimate.

(2) *Release-Flammable Chemicals.* If a release-flammable chemical of interest is present in a mixture in a concentration equal to or greater than one percent (1%) by weight of the mixture, and the mixture has a National Fire Protection Association (NFPA) flammability hazard rating of 4, the facility shall count the entire amount of the mixture toward the STQ. Except as provided in § 27.203(b)(1)(v) for fuels that are stored in aboveground tank farms (including farms that are part of pipeline systems), if a release-flammable chemical of interest is present in a mixture in a concentration equal to or greater than one percent (1%) by weight of the mixture, and the mixture has a National Fire Protection Association (NFPA) flammability hazard rating of 1, 2, or 3, the facility need not count the mixture toward the STQ. The flammability hazard ratings are defined in NFPA 704: Standard System for the Identification of the Hazards of Materials for Emergency Response [2007 ed.]. The Director of the Federal Register approves the incorporation by reference of this standard in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the incorporated standard from the National Fire Protection Association at 1 Batterymarch Park, Quincy, MA 02169–7471 or *http://www.nfpa.org.* You may inspect a copy of the incorporated standard at the Department of Homeland Security, 1621 Kent Street, 9th Floor, Rosslyn VA (please call 703–235–0709) to make an appointment or at

the or at the National Archives and Records Administration (NARA). For information on the availability of material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* If a release-flammable chemical of interest is present in a mixture, and the concentration of the chemical is less than one percent (1%) by weight, the facility need not count the mixture in determining whether the facility possesses the STQ.

(3) *Release-Explosive Chemicals.* For each release-explosive chemical of interest, a facility shall count the total quantity of all commercial grades of the chemical of interest toward the STQ, unless a specific minimum concentration is assigned in the Minimum Concentration column of Appendix A to part 27, in which case the facility should count the total quantity of all commercial grades of the chemical at the specified minimum concentration.

(b) *Theft and Diversion Chemicals.* (1) Theft/Diversion-Chemical Weapons (CW) and Chemical Weapons Precursors (CWP Chemicals: Where a theft/diversion-CWC/CWP chemical of interest is not designated by ''CUM 100g'' in Appendix A, and the chemical is present in a mixture at or above the minimum concentration amount listed in the Minimum Concentration column of Appendix A to part 27, the facility shall count the entire amount of the mixture toward the STQ.

(2) Theft/Diversion-Weapon of Mass Effect (WME) Chemicals: If a theft/diversion-WME chemical of interest is present in a mixture at or above the minimum concentration amount listed in the Minimum Concentration column of Appendix A to part 27, the facility shall count the entire amount of the mixture toward the STQ.

(3) Theft/Diversion-Explosives/Improvised Explosive Device Precursor (EXP/IEDP) Chemicals. For each theft/diversion-EXP/IEDP chemical of interest, a facility shall count the total quantity of all commercial grades of the chemical toward the STQ, unless a specific minimum concentration is assigned in the Minimum Concentration column of Appendix A to part 27, in which case the facility should count the total quantity of all commercial grades of the chemical at the specified minimum concentration.

(c) *Sabotage and Contamination Chemicals.* For each sabotage/contamination chemical of interest, a facility shall count the total quantity of all commercial grades of the chemical toward the STQ.

■ 6. Amend § 27.210 by revising paragraph (a)(1)(i) to read as follows:

§ 27.210 Submissions Schedule.

* * * * *

(a)(1)(i) Unless otherwise notified, within 60 calendar days of November 20, 2007 for facilities that possess any of the chemicals listed in Appendix A at or above the STQ for any applicable Security Issue, or within 60 calendar days for facilities that come into possession of any of the chemicals listed in Appendix A at or above the STQ for any applicable Security Issue; or

* * * * *

■ 7. Revise Appendix A to part 27 to read as follows:

Appendix A to Part 27: DHS Chemicals of Interest

BILLING CODE 4410–10–P

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release – Toxic	Release – Flammables	Release – Explosives	Theft – CW/CWP	Theft – WME	Theft – EXP/IEDP	Sabotage/Contamination
Acetaldehyde		75-07-0	1.00	10,000						X					
Acetone cyanohydrin, stabilized		75-86-5					ACG	APA							X
Acetyl bromide		506-96-7					ACG	APA							X
Acetyl chloride		75-36-5					ACG	APA							X
Acetyl iodide		507-02-8					ACG	APA							X
Acetylene	[Ethyne]	74-86-2	1.00	10,000						X					
Acrolein	[2-Propenal] or Acrylaldehyde	107-02-8	1.00	5,000					X						
Acrylonitrile	[2-Propenenitrile]	107-13-1	1.00	10,000						X					
Acrylyl chloride	[2-Propenoyl chloride]	814-68-6	1.00	10,000						X					
Allyl alcohol	[2-Propen-1-ol]	107-18-6	1.00	15,000					X						
Allylamine	[2-Propen-1-amine]	107-11-9	1.00	10,000						X					
Allyltrichlorosilane, stabilized		107-37-9					ACG	APA							X
Aluminum (powder)		7429-90-5			ACG	100								X	
Aluminum bromide, anhydrous		7727-15-3					ACG	APA							X
Aluminum chloride, anhydrous		7446-70-0					ACG	APA							X
Aluminum phosphide		20859-73-8					ACG	APA							X
Ammonia (anhydrous)		7664-41-7	1.00	10,000					X						
Ammonia (conc. 20% or greater)		7664-41-7	20.00	20,000					X						
Ammonium nitrate, [with more than 0.2 percent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance]		6484-52-2	ACG	5,000	ACG	400					X			X	

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Ammonium nitrate, solid [nitrogen concentration of 23% nitrogen or greater]		6484-52-2			33.00	2000								X	
Ammonium perchlorate		7790-98-9	ACG	5,000	ACG	400					X			X	
Ammonium picrate		131-74-8	ACG	5,000	ACG	400					X			X	
Amyltrichlorosilane		107-72-2					ACG	APA							X
Antimony pentafluoride		7783-70-2					ACG	APA							X
Arsenic trichloride	[Arsenous trichloride]	7784-34-1	1.00	15,000	30.00	2.2			X			X			
Arsine		7784-42-1	1.00	1,000	0.67	15			X				X		
Barium azide		18810-58-7	ACG	5,000	ACG	400					X			X	
1,4-Bis(2-chloroethylthio)-n-butane		142868-93-7			CUM 100g							X			
Bis(2-chloroethylthio)methane		63869-13-6			CUM 100g							X			
Bis(2-chloroethylthiomethyl)ether		63918-90-1			CUM 100g							X			
1,5-Bis(2-chloroethylthio)-n-pentane		142868-94-8			CUM 100g							X			
1,3-Bis(2-chloroethylthio)-n-propane		63905-10-2			CUM 100g							X			
Boron tribromide		10294-33-4			12.67	45	ACG	APA					X		X
Boron trichloride	[Borane, trichloro]	10294-34-5	1.00	5,000	84.70	45			X				X		
Boron trifluoride	[Borane, trifluoro]	7637-07-2	1.00	5,000	26.87	45			X				X		
Boron trifluoride compound with methyl ether (1:1)	[Boron, trifluoro [oxybis (methane)]-,T-4-]	353-42-4	1.00	15,000					X						
Bromine		7726-95-6	1.00	10,000					X						
Bromine chloride		13863-41-7			9.67	45							X		
Bromine pentafluoride		7789-30-2					ACG	APA							X
Bromine trifluoride		7787-71-5			6.00	45	ACG	APA					X		X
Bromotrifluorethylene	[Ethene, bromotrifluoro-]	598-73-2	1.00	10,000						X					

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
1,3-Butadiene		106-99-0	1.00	10,000						X					
Butane		106-97-8	1.00	10,000						X					
Butene		25167-67-3	1.00	10,000						X					
1-Butene		106-98-9	1.00	10,000						X					
2-Butene		107-01-7	1.00	10,000						X					
2-Butene-cis		590-18-1	1.00	10,000						X					
2-Butene-trans	[2-Butene, (E)]	624-64-6	1.00	10,000						X					
Butyltrichlorosilane		7521-80-4					ACG	APA							X
Calcium hydrosulfite	[Calcium dithionite]	15512-36-4					ACG	APA							X
Calcium phosphide		1305-99-3					ACG	APA							X
Carbon disulfide		75-15-0	1.00	20,000					X						
Carbon oxysulfide	[Carbon oxide sulfide (COS); carbonyl sulfide]	463-58-1	1.00	10,000						X					
Carbonyl fluoride		353-50-4			12.00	45							X		
Carbonyl sulfide		463-58-1			56.67	500							X		
Chlorine		7782-50-5	1.00	2,500	9.77	500			X				X		
Chlorine dioxide	[Chlorine oxide, (ClO2)]	10049-04-4	1.00	1,000			ACG	APA	X						X
Chlorine monoxide	[Chlorine oxide]	7791-21-1	1.00	10,000						X					
Chlorine pentafluoride		13637-63-3			4.07	15							X		
Chlorine trifluoride		7790-91-2			9.97	45							X		
Chloroacetyl chloride		79-04-9					ACG	APA							X
2-Chloroethylchloro-methylsulfide		2625-76-5			CUM 100g							X			
Chloroform	[Methane, trichloro-]	67-66-3	1.00	20,000					X						
Chloromethyl ether	[Methane, oxybis(chloro-)]	542-88-1	1.00	1,000					X						
Chloromethyl methyl ether	[Methane, chloromethoxy-]	107-30-2	1.00	5,000					X						
1-Chloropropylene	[1-Propene, 1-chloro-]	590-21-6	1.00	10,000						X					
2-Chloropropylene	[1-Propene, 2-chloro-]	557-98-2	1.00	10,000						X					

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release: Minimum Concentration (%)	Release: Screening Threshold Quantities (in pounds)	Theft: Minimum Concentration (%)	Theft: Screening Threshold Quantities (in pounds unless otherwise noted)	Sabotage: Minimum Concentration (%)	Sabotage: Screening Threshold Quantities	Security Issue: Release – Toxic	Release – Flammables	Release – Explosives	Theft – CW/CWP	Theft – WME	Theft – EXP/IEDP	Sabotage/Contamination
Chlorosarin	[o-Isopropyl methylphosphonochloridate]	1445-76-7			CUM 100g							X			
Chlorosoman	[o-Pinacolyl methylphosphonochloridate]	7040-57-5			CUM 100g							X			
Chlorosulfonic acid		7790-94-5					ACG	APA							X
Chromium oxychloride		14977-61-8					ACG	APA							X
Crotonaldehyde	[2-Butenal]	4170-30-3	1.00	10,000						X					
Crotonaldehyde, (E)-	[2-Butenal], (E)-]	123-73-9	1.00	10,000						X					
Cyanogen	[Ethanedinitrile]	460-19-5	1.00	10,000	11.67	45				X			X		
Cyanogen chloride		506-77-4	1.00	10,000	2.67	15			X				X		
Cyclohexylamine	[Cyclohexanamine]	108-91-8	1.00	15,000					X						
Cyclohexyltrichlorosilane		98-12-4					ACG	APA							X
Cyclopropane		75-19-4	1.00	10,000						X					
DF	Methyl phosphonyl difluoride	676-99-3			CUM 100g							X			
Diazodinitrophenol		87-31-0	ACG	5,000	ACG	400					X			X	
Diborane		19287-45-7	1.00	2,500	2.67	15			X				X		
Dichlorosilane	[Silane, dichloro-]	4109-96-0	1.00	10,000	10.47	45				X			X		
N,N-(2-diethylamino)ethanethiol		100-38-9			30.00	2.2						X			
Diethyldichlorosilane		1719-53-5					ACG	APA							X
o,o-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate		78-53-5			30.00	2.2						X			
Diethyleneglycol dinitrate		693-21-0	ACG	5,000	ACG	400					X			X	
Diethyl methylphosphonite		15715-41-0			30.00	2.2						X			
N,N-Diethyl phosphoramidic dichloride		1498-54-0			30.00	2.2						X			
N,N-(2-diisopropylamino)ethanethiol	N,N-diisopropyl-(beta)-aminoethane thiol	5842-07-9			30.00	2.2						X			

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Difluoroethane	[Ethane, 1,1-difluoro-]	75-37-6	1.00	10,000						X					
N,N-Diisopropyl phosphoramidic dichloride		23306-80-1			30.00	2.2						X			
1,1-Dimethylhydrazine	[Hydrazine, 1, 1-dimethyl-]	57-14-7	1.00	10,000						X					
Dimethylamine	[Methanamine, N-methyl-]	124-40-3	1.00	10,000						X					
N,N-(2-dimethylamino)ethanethiol		108-02-1			30.00	2.2						X			
Dimethyldichlorosilane	[Silane, dichlorodimethyl-]	75-78-5	1.00	10,000			ACG	APA		X					X
N,N-Dimethyl phosphoramidic dichloride	[Dimethylphosphoramido-dichloridate]	677-43-0			30.00	2.2						X			
2,2-Dimethylpropane	[Propane, 2,2-dimethyl-]	463-82-1	1.00	10,000						X					
Dingu	[Dinitroglycoluril]	55510-04-8	ACG	5,000	ACG	400					X			X	
Dinitrogen tetroxide		10544-72-6			3.80	15							X		
Dinitrophenol		25550-58-7	ACG	5,000	ACG	400					X			X	
Dinitroresorcinol		519-44-8	ACG	5,000	ACG	400					X			X	
Diphenyldichlorosilane		80-10-4					ACG	APA							X
Dipicryl sulfide		2217-06-3	ACG	5,000	ACG	400					X			X	
Dipicrylamine [or] Hexyl	[Hexanitrodiphenylamine]	131-73-7	ACG	5,000	ACG	400					X			X	
N,N-(2-dipropylamino)ethanethiol		5842-06-8			30.00	2.2						X			
N,N-Dipropyl phosphoramidic dichloride		40881-98-9			30.00	2.2						X			
Dodecyltrichlorosilane		4484-72-4					ACG	APA							X
Epichlorohydrin	[Oxirane, (chloromethyl)-]	106-89-8	1.00	20,000					X						
Ethane		74-84-0	1.00	10,000						X					
Ethyl acetylene	[1-Butyne]	107-00-6	1.00	10,000						X					
Ethyl chloride	[Ethane, chloro-]	75-00-3	1.00	10,000						X					
Ethyl ether	[Ethane, 1,1-oxybis-]	60-29-7	1.00	10,000						X					
Ethyl mercaptan	[Ethanethiol]	75-08-1	1.00	10,000						X					

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release – Toxic	Release – Flammables	Release – Explosives	Theft – CW/CWP	Theft – WME	Theft – EXP/IEDP	Sabotage/Contamination
Ethyl nitrite	[Nitrous acid, ethyl ester]	109-95-5	1.00	10,000						X					
Ethyl phosphonyl difluoride		753-98-0			CUM 100g							X			
Ethylamine	[Ethanamine]	75-04-7	1.00	10,000						X					
Ethyldiethanolamine		139-87-7			80.00	220						X			
Ethylene	[Ethene]	74-85-1	1.00	10,000						X					
Ethylene oxide	[Oxirane]	75-21-8	1.00	10,000						X					
Ethylenediamine	[1,2-Ethanediamine]	107-15-3	1.00	20,000					X						
Ethyleneimine	[Aziridine]	151-56-4	1.00	10,000						X					
Ethylphosphonothioic dichloride		993-43-1			30.00	2.2						X			
Ethyltrichlorosilane		115-21-9					ACG	APA							X
Fluorine		7782-41-4	1.00	1,000	6.17	15			X				X		
Fluorosulfonic acid		7789-21-1					ACG	APA							X
Formaldehyde (solution)		50-00-0	1.00	15,000					X						
Furan		110-00-9	1.00	10,000						X					
Germane		7782-65-2			20.73	45							X		
Germanium tetrafluoride		7783-58-6			2.11	15							X		
Guanyl nitrosaminoguanylidene hydrazine			ACG	5,000	ACG	400					X			X	
Hexaethyl tetraphosphate and compressed gas mixtures		757-58-4			33.37	500							X		
Hexafluoroacetone		684-16-2			15.67	45							X		
Hexanitrostilbene		20062-22-0	ACG	5,000	ACG	400					X			X	
Hexolite	[Hexotol]	121-82-4	ACG	5,000	ACG	400					X			X	
Hexyltrichlorosilane		928-65-4					ACG	APA							X
HMX	[Cyclotetramethylene-tetranitramine]	2691-41-0	ACG	5,000	ACG	400					X			X	

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
HN1 (nitrogen mustard-1)	[Bis(2-chloroethyl)ethylamine]	538-07-8			CUM 100g							X			
HN2 (nitrogen mustard-2)	[Bis(2-chloroethyl)methylamine]	51-75-2			CUM 100g							X			
HN3 (nitrogen mustard-3)	[Tris(2-chloroethyl)amine]	555-77-1			CUM 100g							X			
Hydrazine		302-01-2	1.00	10,000						X					
Hydrochloric acid (conc. 37% or greater)		7647-01-0	37.00	15,000					X						
Hydrocyanic acid		74-90-8	1.00	2,500					X						
Hydrofluoric acid (conc. 50% or greater)		7664-39-3	50.00	1,000					X						
Hydrogen		1333-74-0	1.00	10,000						X					
Hydrogen bromide (anhydrous)		10035-10-6			95.33	500							X		
Hydrogen chloride (anhydrous)		7647-01-0	1.00	5,000	ACG	500			X				X		
Hydrogen cyanide	[Hydrocyanic acid]	74-90-8			4.67	15							X		
Hydrogen fluoride (anhydrous)		7664-39-3	1.00	1,000	42.53	45			X				X		
Hydrogen iodide, anhydrous		10034-85-2			95.33	500							X		
Hydrogen peroxide (concentration of at least 35%)		7722-84-1			35.00	400								X	
Hydrogen selenide		7783-07-5	1.00	10,000	0.07	15				X			X		
Hydrogen sulfide		7783-06-4	1.00	10,000	23.73	45			X				X		
Iodine pentafluoride		7783-66-6					ACG	APA							X
Iron, pentacarbonyl-	[Iron carbonyl (Fe (CO)5), (TB5-11)-]	13463-40-6	1.00	10,000						X					
Isobutane	[Propane, 2-methyl]	75-28-5	1.00	10,000						X					
Isobutyronitrile	[Propanenitrile, 2-methyl-]	78-82-0	1.00	20,000					X						
Isopentane	[Butane, 2-methyl-]	78-78-4	1.00	10,000						X					
Isoprene	[1,3-Butadiene, 2-methyl-]	78-79-5	1.00	10,000						X					

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Isopropyl chloride	[Propane, 2-chloro-]	75-29-6	1.00	10,000						X					
Isopropyl chloroformate	[Carbonochloridic acid, 1-methylethyl ester]	108-23-6	1.00	15,000					X						
Isopropylamine	[2-Propanamine]	75-31-0	1.00	10,000						X					
Isopropylphosphonothioic dichloride		1498-60-8			30.00	2.2						X			
Isopropylphosphonyl difluoride		677-42-9				CUM 100g						X			
Lead azide		13424-46-9	ACG	5,000	ACG	400					X			X	
Lead styphnate	[Lead trinitroresorcinate]	15245-44-0	ACG	5,000	ACG	400					X			X	
Lewisite 1	[2-Chlorovinyldichloroarsine]	541-25-3				CUM 100g						X			
Lewisite 2	[Bis(2-chlorovinyl)chloroarsine]	40334-69-8				CUM 100g						X			
Lewisite 3	[Tris(2-chlorovinyl)arsine]	40334-70-1				CUM 100g						X			
Lithium amide		7782-89-0					ACG	APA							X
Lithium nitride		26134-62-3					ACG	APA							X
Magnesium (powder)		7439-95-4			ACG	100								X	
Magnesium diamide		7803-54-5					ACG	APA							X
Magnesium phosphide		12057-74-8					ACG	APA							X
MDEA	[Methyldiethanolamine]	105-59-9			80.00	220						X			
Mercury fulminate		628-86-4	ACG	5,000	ACG	400					X			X	
Methacrylonitrile	[2-Propenenitrile, 2-methyl-]	126-98-7	1.00	10,000					X						
Methane		74-82-8	1.00	10,000						X					
2-Methyl-1-butene		563-46-2	1.00	10,000						X					
3-Methyl-1-butene		563-45-1	1.00	10,000						X					
Methyl chloride	[Methane, chloro-]	74-87-3	1.00	10,000						X					
Methyl chloroformate	[Carbonochloridic acid, methyl ester]	79-22-1	1.00	10,000						X					
Methyl ether	[Methane, oxybis-]	115-10-6	1.00	10,000						X					
Methyl formate	[Formic acid Methyl ester]	107-31-3	1.00	10,000						X					

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Methyl hydrazine	[Hydrazine, methyl-]	60-34-4	1.00	15,000					X						
Methyl isocyanate	[Methane, isocyanato-]	624-83-9	1.00	10,000					X						
Methyl mercaptan	[Methanethiol]	74-93-1	1.00	10,000	45.00	500				X			X		
Methyl thiocyanate	[Thiocyanic acid, methyl ester]	556-64-9	1.00	20,000					X						
Methylamine	[Methanamine]	74-89-5	1.00	10,000						X					
Methylchlorosilane		993-00-0			20.00	45							X		
Methyldichlorosilane		75-54-7					ACG	APA							X
Methylphenyldichlorosilane		149-74-6					ACG	APA							X
Methylphosphonothioic dichloride		676-98-2			30.00	2.2						X			
2-Methylpropene	[1-Propene, 2-methyl-]	115-11-7	1.00	10,000						X					
Methyltrichlorosilane	[Silane, trichloromethyl-]	75-79-6	1.00	10,000			ACG	APA		X					X
Sulfur mustard (Mustard gas (H))	[Bis(2-chloroethyl)sulfide]	505-60-2			CUM 100g							X			
O-Mustard (T)	[Bis(2-chloroethylthioethyl)ether]	63918-89-8			CUM 100g							X			
Nickel Carbonyl		13463-39-3	1.00	10,000						X					
Nitric acid		7697-37-2	80.00	15,000	68.00	400			X					X	
Nitric oxide	[Nitrogen oxide (NO)]	10102-43-9	1.00	10,000	3.83	15			X				X		
Nitrobenzene		98-95-3			ACG	100								X	
5-Nitrobenzotriazol		2338-12-7	ACG	5,000	ACG	400					X			X	
Nitrocellulose		9004-70-0	ACG	5,000	ACG	400					X			X	
Nitrogen mustard hydrochloride	[Bis(2-chloroethyl)methylamine hydrochloride]	55-86-7			30.00	2.2						X			
Nitrogen trioxide		10544-73-7			3.83	15							X		
Nitroglycerine		55-63-0	ACG	5,000	ACG	400					X			X	
Nitromannite	[Mannitol hexanitrate, wetted]	15825-70-4	ACG	5,000	ACG	400					X			X	
Nitromethane		75-52-5			ACG	400								X	
Nitrostarch		9056-38-6	ACG	5,000	ACG	400					X			X	
Nitrosyl chloride		2696-92-6			1.17	15							X		

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Nitrotriazolone		932-64-9	ACG	5,000	ACG	400					X			X	
Nonyltrichlorosilane		5283-67-0					ACG	APA							X
Octadecyltrichlorosilane		112-04-9					ACG	APA							X
Octolite		57607-37-1	ACG	5,000	ACG	400					X			X	
Octonal		78413-87-3	ACG	5,000	ACG	400					X			X	
Octyltrichlorosilane		5283-66-9					ACG	APA							X
Oleum (Fuming Sulfuric acid)	[Sulfuric acid, mixture with sulfur trioxide]	8014-95-7	1.00	10,000					X						
Oxygen difluoride		7783-41-7			0.09	15							X		
1,3-Pentadiene		504-60-9	1.00	10,000						X					
Pentane		109-66-0	1.00	10,000						X					
1- Pentene		109-67-1	1.00	10,000						X					
2-Pentene, (E)-		646-04-8	1.00	10,000						X					
2-Pentene, (Z)-		627-20-3	1.00	10,000						X					
Pentolite		8066-33-9	ACG	5,000	ACG	400					X			X	
Peracetic acid	[Ethaneperoxic acid]	79-21-0	1.00	10,000						X					
Perchloromethylmercaptan	[Methanesulfenyl chloride, trichloro-]	594-42-3	1.00	10,000					X						
Perchloryl fluoride		7616-94-6			25.67	45							X		
PETN	[Pentaerythritol tetranitrate]	78-11-5	ACG	5,000	ACG	400					X			X	
Phenyltrichlorosilane		98-13-5					ACG	APA							X
Phosgene	[Carbonic dichloride] or [carbonyl dichloride]	75-44-5	1.00	500	0.17	15			X				X		
Phosphine		7803-51-2	1.00	10,000	0.67	15				X			X		
Phosphorus		7723-14-0			ACG	400								X	
Phosphorus oxychloride	[Phosphoryl chloride]	10025-87-3	1.00	5,000	80.00	220	ACG	APA	X			X			X
Phosphorus pentabromide		7789-69-7					ACG	APA							X
Phosphorus pentachloride		10026-13-8					ACG	APA							X
Phosphorus pentasulfide		1314-80-3					ACG	APA							X

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Phosphorus trichloride		7719-12-2	1.00	15,000	3.48	45	ACG	APA	X				X		X
Picrite	[Nitroguanidine]	556-88-7	ACG	5,000	ACG	400					X			X	
Piperidine		110-89-4	1.00	10,000						X					
Potassium chlorate		3811-04-9			ACG	400								X	
Potassium cyanide		151-50-8					ACG	APA							X
Potassium nitrate		7757-79-1			ACG	400								X	
Potassium perchlorate		7778-74-7			ACG	400								X	
Potassium permanganate		7722-64-7			ACG	400								X	
Potassium phosphide		20770-41-6					ACG	APA							X
Propadiene	[1,2-Propadiene]	463-49-0	1.00	10,000						X					
Propane		74-98-6	1.00	60,000						X					
Propionitrile	[Propanenitrile]	107-12-0	1.00	10,000					X						
Propyl chloroformate	[Carbonchloridic acid, propylester]	109-61-5	1.00	10,000						X					
Propylene	[1-Propene]	115-07-1	1.00	10,000						X					
Propylene oxide	[Oxirane, methyl-]	75-56-9	1.00	10,000						X					
Propyleneimine	[Aziridine, 2-methyl-]	75-55-8	1.00	10,000					X						
Propylphosphonothioic dichloride		2524-01-8			30.00	2.2						X			
Propylphosphonyl difluoride		690-14-2			CUM 100g							X			
Propyltrichlorosilane		141-57-1					ACG	APA							X
Propyne	[1-Propyne]	74-99-7	1.00	10,000						X					
QL	[o-Ethyl-o-2-diisopropylaminoethyl methylphosphonite]	57856-11-8			CUM 100g							X			
RDX	[Cyclotrimethylenetrinitramine]	121-82-4	ACG	5,000	ACG	400					X			X	
RDX and HMX mixtures		121-82-4	ACG	5,000	ACG	400					X			X	
Sarin	[o-Isopropyl methylphosphonofluoridate]	107-44-8			CUM 100g							X			
Selenium hexafluoride		7783-79-1			1.67	15							X		

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release: Minimum Concentration (%)	Release: Screening Threshold Quantities (in pounds)	Theft: Minimum Concentration (%)	Theft: Screening Threshold Quantities (in pounds unless otherwise noted)	Sabotage: Minimum Concentration (%)	Sabotage: Screening Threshold Quantities	Security Issue: Release -- Toxic	Security Issue: Release -- Flammables	Security Issue: Release -- Explosives	Security Issue: Theft -- CW/CWP	Security Issue: Theft -- WME	Security Issue: Theft -- EXP/IEDP	Security Issue: Sabotage/Contamination
Sesquimustard	[1,2-Bis(2-chloroethylthio)ethane]	3563-36-8			CUM 100g							X			
Silane		7803-62-5	1.00	10,000						X					
Silicon tetrachloride		10026-04-7					ACG	APA							X
Silicon tetrafluoride		7783-61-1			15.00	45							X		
Sodium azide		26628-22-8			ACG	400								X	
Sodium chlorate		7775-09-9			ACG	400								X	
Sodium cyanide		143-33-9					ACG	APA							X
Sodium hydrosulfite	[Sodium dithionite]	7775-14-6					ACG	APA							X
Sodium nitrate		7631-99-4			ACG	400								X	
Sodium phosphide		12058-85-4					ACG	APA							X
Soman	[o-Pinacolyl methylphosphonofluoridate]	96-64-0			CUM 100g							X			
Stibine		7803-52-3			0.67	15							X		
Strontium phosphide		12504-16-4					ACG	APA							X
Sulfur dioxide (anhydrous)		7446-09-5	1.00	5,000	84.00	500			X				X		
Sulfur tetrafluoride	[Sulfur fluoride (SF4), (T-4)-]	7783-60-0	1.00	2,500	1.33	15			X				X		
Sulfur trioxide		7446-11-9	1.00	10,000					X						
Sulfuryl chloride		7791-25-5					ACG	APA							X
Tabun	[o-Ethyl-N,N-dimethylphosphoramido-cyanidate]	77-81-6			CUM 100g							X			
Tellurium hexafluoride		7783-80-4			0.83	15							X		
Tetrafluoroethylene	[Ethene, tetrafluoro-]	116-14-3	1.00	10,000						X					
Tetramethyllead	[Plumbane, tetramethyl-]	75-74-1	1.00	10,000					X						
Tetramethylsilane	[Silane, tetramethyl-]	75-76-3	1.00	10,000						X					
Tetranitroaniline		53014-37-2	ACG	5,000	ACG	400					X			X	
Tetranitromethane	[Methane, tetranitro-]	509-14-8	1.00	10,000						X					
Tetrazene	[Guanyl nitrosaminoguanyltetrazene]	109-27-3	ACG	5,000	ACG	400					X			X	

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release – Toxic	Release – Flammables	Release – Explosives	Theft – CW/CWP	Theft – WME	Theft – EXP/IEDP	Sabotage/Contamination
1H-Tetrazole		288-94-8	ACG	5,000	ACG	400					X			X	
Thiodiglycol	[Bis(2-hydroxyethyl)sulfide]	111-48-8			30.00	2.2						X			
Thionyl chloride		7719-09-7					ACG	APA							X
Titanium tetrachloride	[Titanium chloride (TiCl4) (T-4)-]	7550-45-0	1.00	2,500	13.33	45	ACG	APA	X				X		X
TNT	[Trinitrotoluene]	118-96-7	ACG	5,000	ACG	400					X			X	
Torpex	[Hexotonal]	67713-16-0	ACG	5,000	ACG	400					X			X	
Trichlorosilane	[Silane, trichloro-]	10025-78-2	1.00	10,000			ACG	APA		X					X
Triethanolamine		102-71-6			80.00	220						X			
Triethanolamine hydrochloride		637-39-8			80.00	220						X			
Triethyl phosphite		122-52-1			80.00	220						X			
Trifluoroacetyl chloride		354-32-5			6.93	45							X		
Trifluorochloroethylene	[Ethene, chlorotrifluoro]	79-38-9	1.00	10,000	66.67	500				X			X		
Trimethylamine	[Methanamine, N,N-dimethyl-]	75-50-3	1.00	10,000						X					
Trimethylchlorosilane	[Silane, chlorotrimethyl-]	75-77-4	1.00	10,000			ACG	APA		X					X
Trimethyl phosphite		121-45-9			80.00	220						X			
Trinitroaniline		26952-42-1	ACG	5,000	ACG	400					X			X	
Trinitroanisole		606-35-9	ACG	5,000	ACG	400					X			X	
Trinitrobenzene		99-35-4	ACG	5,000	ACG	400					X			X	
Trinitrobenzenesulfonic acid		2508-19-2	ACG	5,000	ACG	400					X			X	
Trinitrobenzoic acid		129-66-8	ACG	5,000	ACG	400					X			X	
Trinitrochlorobenzene		88-88-0	ACG	5,000	ACG	400					X			X	
Trinitrofluorenone		129-79-3	ACG	5,000	ACG	400					X			X	
Trinitro-meta-cresol		602-99-3	ACG	5,000	ACG	400					X			X	
Trinitronaphthalene		55810-17-8	ACG	5,000	ACG	400					X			X	
Trinitrophenetole		4732-14-3	ACG	5,000	ACG	400					X			X	
Trinitrophenol		88-89-1	ACG	5,000	ACG	400					X			X	
Trinitroresorcinol		82-71-3	ACG	5,000	ACG	400					X			X	
Tritonal		54413-15-9	ACG	5,000	ACG	400					X			X	
Tungsten hexafluoride		7783-82-6			7.10	45							X		

Appendix A to Part 27. -- DHS Chemicals of Interest [1]

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue						
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release -- Toxic	Release -- Flammables	Release -- Explosives	Theft -- CW/CWP	Theft -- WME	Theft -- EXP/IEDP	Sabotage/Contamination
Vinyl acetate monomer	[Acetic acid ethenyl ester]	108-05-4	1.00	10,000						X					
Vinyl acetylene	[1-Buten-3-yne]	689-97-4	1.00	10,000						X					
Vinyl chloride	[Ethene, chloro-]	75-01-4	1.00	10,000						X					
Vinyl ethyl ether	[Ethene, ethoxy-]	109-92-2	1.00	10,000						X					
Vinyl fluoride	[Ethene, fluoro-]	75-02-5	1.00	10,000						X					
Vinyl methyl ether	[Ethene, methoxy-]	107-25-5	1.00	10,000						X					
Vinylidene chloride	[Ethene, 1,1-dichloro-]	75-35-4	1.00	10,000						X					
Vinylidene fluoride	[Ethene, 1,1-difluoro-]	75-38-7	1.00	10,000						X					
Vinyltrichlorosilane		75-94-5					ACG	APA							X
VX	[o-Ethyl-S-2-diisopropylaminoethyl methyl phosphonothiolate]	50782-69-9			CUM 100g							X			
Zinc hydrosulfite	[Zinc dithionite]	7779-86-4					ACG	APA							X

[1] The acronyms used in this appendix have the following meaning: ACG = A Commercial Grade; APA = A Placarded Amount; CW/CWP = Chemical Weapons/Chemical Weapons Precursors; WME = Weapons of Mass Effect; EXP/IEDP = Explosives/Improvised Explosive Device Precursors

Michael Chertoff,

Secretary of Homeland Security, Department of Homeland Security.

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Federal Register

Tuesday,

November 20, 2007

Part III

The President

Proclamation 8205—National Farm-City Week, 2007

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Tuesday, November 20, 2007

Presidential Documents

Title 3—

The President

Proclamation 8205 of November 16, 2007

National Farm-City Week, 2007

By the President of the United States of America

A Proclamation

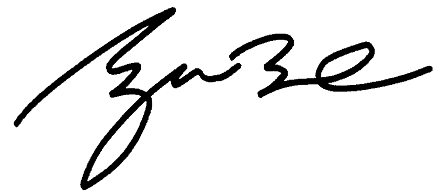
Our Nation's agricultural industry contributes greatly to the strength of our economy. During National Farm-City Week, we honor the hard work and dedication of America's farmers and ranchers and we highlight the important urban and rural partnerships that help keep our country strong and prosperous.

America's farmers and ranchers embody an important part of our national heritage. As stewards of our land, our farmers and ranchers protect our soil, water, and wildlife habitat. With hard work, discipline, and ingenuity, they produce a safe and healthy food supply. Farmers and ranchers work closely with processors, transporters, and retailers, moving agricultural products from the farm to the homes of Americans and people around the world. My Administration is working to open new markets for American farm products and to encourage free and fair trade. By expanding opportunities for American farmers and ranchers, we can help keep our economy strong and growing.

As we celebrate Farm-City Week, we recognize the many contributions of America's farmers and ranchers and all those who work to strengthen the ties between our rural and urban communities. Our Nation is blessed by those who grow, harvest, and deliver these products, and we honor their dedication to feeding our country and the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 16 through November 22, 2007, as National Farm-City Week. I encourage all Americans to recognize the many accomplishments of our farmers and ranchers, and all those who contribute to the strength of America's agricultural industry.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.



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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 20, 2007

HOMELAND SECURITY DEPARTMENT

Chemical facility anti-terrorist standards; published 11-20-07

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Airworthiness directives:

Airbus; published 10-16-07

Boeing; published 10-16-07

Empresa Brasileira de Aeronautica S.A.; published 10-16-07

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Agricultural Marketing Service

Grapes grown in southeastern California and imported table grapes; comments due by 11-26-07; published 10-25-07 [FR 07-05266]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, foreign:

Chrysanthemum white rust; comments due by 11-26-07; published 10-26-07 [FR E7-21136]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Program regulations:

Future farm programs; cash and share lease provisions; comments due by 11-27-07; published 9-28-07 [FR 07-04755]

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:

Future farm programs; cash and share lease provisions; comments due by 11-27-07; published 9-28-07 [FR 07-04755]

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Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

Southern Atlantic states; for-hire fishery control date; comments due by 11-26-07; published 10-26-07 [FR E7-21099]

Northeastern United States fisheries—

Summer flounder, scup, and black sea bass; comments due by 11-30-07; published 12-30-99 [FR E7-22052]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Hazardous waste combustors; comments due by 11-27-07; published 10-18-07 [FR E7-20596]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Nevada; comments due by 11-30-07; published 10-31-07 [FR E7-21449]

Air quality implementation plans; approval and promulgation; various States:

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Kentucky; comments due by 11-28-07; published 10-29-07 [FR E7-21245]

Michigan; comments due by 11-26-07; published 10-26-07 [FR E7-20948]

North Carolina; comments due by 11-30-07; published 10-31-07 [FR E7-21235]

Air quality planning purposes; designation of areas:

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Texas; comments due by 11-29-07; published 10-30-07 [FR E7-21313]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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Quinclorac; comments due by 11-27-07; published 9-28-07 [FR E7-19227]

Sulfosulfuron; comments due by 11-26-07; published 9-26-07 [FR E7-18864]

Tembotrione, et al.; comments due by 11-27-07; published 9-28-07 [FR E7-19230]

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Oregon; comments due by 11-26-07; published 10-22-07 [FR E7-20747]

Radio stations; table of assignments:

Oklahoma; comments due by 11-26-07; published 10-22-07 [FR E7-20732]

Texas; comments due by 11-26-07; published 10-22-07 [FR E7-20754]

FEDERAL ELECTION COMMISSION

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Bundled contributions; information disclosure by lobbyists and registrants; comments due by 11-30-07; published 11-6-07 [FR E7-21711]

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Quarantine, inspection, and licensing:

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HEALTH AND HUMAN SERVICES DEPARTMENT

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Sunscreen drug products for over-the-counter human use; proposed amendment of final monograph; comments due by 11-26-07; published 8-27-07 [FR 07-04131]

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Unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony; disposition; consultation and dialogue; comments due by 12-1-07; published 8-13-07 [FR E7-15823]

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Preexisting subscription and satellite digital audio radio services; rates and terms adjustment; comments due by 11-30-07; published 10-31-07 [FR E7-21473]

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Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

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Seattle Tacoma International Airport, WA; comments due by 11-28-07; published 10-29-07 [FR 07-05323]
Agency information collection activities; proposals, submissions, and approvals; comments due by 11-28-07; published 10-29-07 [FR 07-05318]
Airworthiness directives:
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Bombardier; comments due by 11-29-07; published 10-30-07 [FR E7-21178]
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Boeing Model 767 series airplanes; comments due by 11-28-07; published 10-29-07 [FR E7-21240]
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Veterans, surviving spouses, and surviving children; improved pension regulations; comments due by 11-26-07; published 9-26-07 [FR E7-18745]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2602/P.L. 110–118

To name the Department of Veterans Affairs medical facility in Iron Mountain, Michigan, as the "Oscar G. Johnson Department of Veterans Affairs Medical Facility". (Nov. 16, 2007; 121 Stat. 1346)

S.J. Res. 7/P.L. 110–119

Providing for the reappointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution. (Nov. 16, 2007; 121 Stat. 1347)

S. 2206/P.L. 110–120

To provide technical corrections to Public Law 109-116 (2 U.S.C. 2131a note) to extend the time period for the Joint Committee on the Library to enter into an agreement to obtain a statue of Rosa Parks, and for other purposes. (Nov. 19, 2007; 121 Stat. 1348)

Last List November 19, 2007

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